

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 18-20027

Hon. Terrence G. Berg

PRABHU RAMAMOORTHY,

Defendant.

**JURY TRIAL: VOLUME 5**

BEFORE THE HONORABLE TERRENCE G. BERG  
United States District Judge  
Theodore Levin United States Courthouse  
231 West Lafayette Boulevard  
Detroit, Michigan 48226  
Wednesday, August 15, 2018

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Court Interpreter

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23  
24  
25

TABLE OF CONTENTSPageDefense Witnesses Continued:

GEETHANJALI NATARAJAN

Redirect Examination by Mr. Amberg

17

DEFENSE RESTS

34

CLOSING STATEMENT BY MS. JAWAD

44

CLOSING STATEMENT BY MR. AMBERG

64

REBUTTAL STATEMENT BY MS. JAWAD

88

JURY INSTRUCTIONS BY THE COURT

93

RULE 29 MOTION:

Motion by Mr. Amberg

115

Comments/Ruling by the Court

115

JURY VERDICT

128

MOTION FOR BOND REVOCATION:

Motion by Ms. Smith

132

Response by Mr. Amberg

133

Comments/Ruling by the Court

133

EXHIBITSIdentificationOfferedReceived

NONE

1 Detroit, Michigan

2 Wednesday, August 15, 2018

3 — — —

4 (Proceedings commenced at 9:08 a.m., all parties  
5 present, jury not present)

6 THE LAW CLERK: Court calls Case No. 18-20027, United  
7 States of America versus Prabhu Ramamoorthy.

8 Counsel, will you please place your appearances on  
9 the record?

10 MS. JAWAD: Good morning, Your Honor. Amanda Jawad  
11 and Maggie Smith on behalf of the United States. With us at  
12 counsel table is Meghann O'Connor, a paralegal from our office,  
13 and Special Agent Kyle Dodge with the FBI.

14 THE COURT: Good morning.

15 MS. SMITH: Good morning.

16 MR. AMBERG: Sorry. Good morning, Your Honor. Jim  
17 Amberg on behalf of Mr. Ramamoorthy; he is standing to my  
18 right. To his right is Mr. Vijay and to my left is co-counsel,  
19 Victor Mansour.

20 THE COURT: Well, good morning, Counsel. Good  
21 morning Mr. Ramamoorthy.

22 So I understand that one of our jurors has a problem  
23 that I wanted to explain to you. You may be seated. There was  
24 a note -- not a note but a notification I guess I should say  
25 from Mr. Hester who is the juror sitting in seat number eight;

1 that's in the front row on the right-hand side. He has had --  
2 apparently his steering column on his car fell out when he came  
3 in to park today because he had recently had some repair work  
4 on it, and he has reported to Ms. Chubb that he has blood  
5 pressure problems and is concerned about continuing in his  
6 service here.

7 So wanted to bring this to your attention to get your  
8 input on it, and so I'd be happy to hear any thoughts that you  
9 may have.

10 MS. SMITH: Well, we do have two alternates and so we  
11 have room for the dismissal of two jurors. I know we decided  
12 to do it randomly. I don't know if the Court wants to voir  
13 dire a little bit more, but the fact that you indicated that  
14 this juror is talking about his blood pressure, I'm wondering  
15 if he is trying to say that he's not sure that he would be able  
16 to deliberate. Is that -- is that the message that he's  
17 sending?

18 THE COURT: That -- the impression that I get is just  
19 that this is getting very hard for him. He's also from pretty  
20 far away, from like Lake Orion, so he has a ways to go.

21 MS. SMITH: I -- I think I'm going to take no  
22 position on this, Your Honor. I don't --

23 THE COURT: You wouldn't object to excusing him  
24 though?

25 MS. SMITH: I don't think so, no.

1 THE COURT: All right. What do you think, Mr.  
2 Amberg?

3 MR. AMBERG: I think that it would probably be wise  
4 to at least do some limited voir dire on the record so we've  
5 got a record of it. But I mean if he's medically unfit to sit  
6 there, I can't ask somebody to sit there and risk having a  
7 heart attack. But my only -- and I -- I don't want to knock  
8 him, but at the same time, this trial's been going on for a  
9 week now and -- and we asked about medical conditions and  
10 things like that in the beginning. I mean he's had issue with  
11 the mechanics of his vehicle, but now at the same time I mean  
12 is this what's causing the -- the heart blood pressure issues  
13 and things like that? So I think maybe just some voir dire to  
14 see, and then depending on what he says...

15 THE COURT: So you would like to do that here in the  
16 courtroom?

17 MR. AMBERG: Sure.

18 THE COURT: And --

19 MR. AMBERG: Yes.

20 THE COURT: All right. What do you think about that,  
21 Ms. Smith, any objection?

22 MS. SMITH: I don't have an objection to that.

23 THE COURT: All right. Well, Mr. Darling, can you  
24 ask Mr. Hester to join us?

25 THE LAW CLERK: Yes.

1 (Brief pause)

2 (Juror Hester entered courtroom at 9:12 a.m.)

3 THE COURT: Hello, sir. Would you have a -- why  
4 don't you have a seat in your chair there and everyone can be  
5 seated.

6 So welcome, good morning. Sorry about your car  
7 trouble, Mr. Hester. I understand that you had some difficulty  
8 with your vehicle and that you may also have some medical  
9 issues there.

10 JUROR NO. 8: I'm -- I'm on blood pressure and little  
11 things get me going.

12 THE COURT: Okay.

13 JUROR NO. 8: I didn't have a problem with my vehicle  
14 coming down, parked on the fourth floor and backed my truck up  
15 and put it in park and shut it off. Sorry.

16 THE COURT: Go ahead.

17 JUROR NO. 8: And with the -- with the keys out of  
18 the ignition, the vehicle started going forward, so I tried to  
19 put it back in -- in park and it got stuck in neutral, and I  
20 can't turn the key and nothing happens. So my mechanic worked  
21 on it Monday and I drove it all day Monday afternoon and then  
22 all day yesterday, no problem, so...

23 THE COURT: Well, I've told the parties and their  
24 lawyers about your issue, and we're just trying to determine  
25 whether you are able to continue serving or not under these

1 circumstances, and so what -- what do you think about that?

2 JUROR NO. 8: To be very honest, I really hate to do  
3 this but I'm a little bit dizzy right now. Little things get  
4 me -- get me going. Even though I took my blood pressure pill  
5 this morning, I'm still a little -- because I've got a long day  
6 ahead of me now. I've got to find a way to get my vehicle  
7 home. I live in Lake Orion.

8 THE COURT: Do you think that the difficulties of  
9 serving as a juror may be creating some problems for you in  
10 light of your blood pressure situation?

11 JUROR NO. 8: Oh, there's no doubt because I was fine  
12 coming down.

13 THE COURT: I would like to ask the lawyers if they  
14 would like to ask any questions, you're welcome to do so.

15 MS. SMITH: I have no questions, Your Honor, and I  
16 also have no objection.

17 MR. AMBERG: No questions, Your Honor. Sounds like  
18 the gentleman is dizzy even right now. I don't know how -- how  
19 he could be able to focus on all this if he's -- you know,  
20 medically he can't even -- he's got to worry about himself I  
21 think.

22 JUROR NO. 8: Thank you.

23 THE COURT: Thank you very much. All right. Well,  
24 Mr. Hester, I'm going to excuse you from your service in light  
25 of your difficulty that you're having today both with your



1 vehicle and because of your -- your medical situation. And  
2 fortunately we do have alternates here; that's why we selected  
3 extra people.

4 And so obviously this is not your fault and  
5 everyone's very appreciative of the fact that you've donated  
6 and dedicated your time and your attention to this case just as  
7 your other fellow jurors did, and I thank you for that on  
8 behalf of the Court and on behalf of the parties who are here  
9 as well and appreciate your service.

10 JUROR NO. 8: Well, thank you very much.

11 THE COURT: And so you can be excused, sir, and I  
12 think probably go back to the jury assembly room and let them  
13 know what happened, and good luck with your issue.

14 JUROR NO. 8: Okay. Thank you.

15 MS. SMITH: Your Honor, before we go off the record,  
16 may I just ask you to remind this juror that he is still not to  
17 talk about the case to anybody because --

18 THE COURT: That's a good idea. And so Mr. Hester,  
19 I'm sure you understand that.

20 JUROR NO. 8: Yes.

21 THE COURT: But don't talk about what the -- the case  
22 is about or indicate any of your -- your judgment about the  
23 case one way or the other. Of course, once the case is  
24 completed, you could talk about your service.

25 JUROR NO. 8: Okay. Thank you.

1 THE COURT: All right. Thank you.

2 MS. SMITH: Thank you.

3 (Juror Hester excused at 9:16 a.m.)

4 THE COURT: Let's -- I want to ask the lawyers  
5 another question. So you may be seated.

6 The other issue I wanted to bring up was that we do  
7 have our other interpreter who was engaged for the purpose of  
8 being available if Mr. Ramamoorthy testifies, and that was at  
9 the government's request, correct?

10 MS. SMITH: Yes, Your Honor.

11 THE COURT: And so I'm not sure where our interpreter  
12 is, but are you present in the courtroom? All right. Could  
13 you just tell us your name please.

14 THE INTERPRETER: Haresh Kumar, Your Honor.

15 THE COURT: All right. And Ms. Smith, what is  
16 your -- what is your intention regarding Ms. Kumar?

17 MS. SMITH: Your Honor, for the record, the -- Mr.  
18 Vijay who has been interpreting through this trial is also here  
19 today, and it is my understanding that the defendant intends to  
20 waive his right to testify today. And so at this point in the  
21 procedure, because we have two interpreters here, the United  
22 States does not have an objection to allowing the defendant to  
23 choose which interpreter he would like to keep for the day so  
24 long as the defendant has indicated that he is happy with the  
25 services of -- if he chooses to keep Mr. Vijay, that he

1 indicates he's happy with the translation services that are  
2 being provided.

3 THE COURT: All right. Do you think that it would be  
4 appropriate to utilize Ms. -- Ms. Kumar for purposes of the  
5 inquiry and the voir dire of Mr. Ramamoorthy about his decision  
6 whether to testify or does that matter with respect to your  
7 position?

8 MS. SMITH: Well, if the defendant is indicating to  
9 the Court that he understands his interpreter and that his  
10 interpreter is accurately interpreting, I think it's the  
11 defendant's -- I don't speak the language so only he can tell  
12 us if he understands this interpreter and if he's comfortable  
13 with how the interpretation has been through the proceedings.

14 THE COURT: All right. Thank you. Mr. Amberg?

15 MR. AMBERG: Yes, Your Honor. Couple things. First,  
16 as -- as you note, there are two interpreters here. Ms. Kumar  
17 was the interpreter who interpreted when Mr. Ramamoorthy  
18 testified.

19 This decision about whether -- whether or not to  
20 testify has been going on for a couple of days now, as the  
21 Court is aware. I've spoke with Mr. Ramamoorthy with Mr. Vijay  
22 on every one of those occurrences when we discussed whether to  
23 testify or not testify. And I know we have the -- the end of  
24 our redirect on Ms. Natarajan, but right after that I  
25 anticipate closing and anticipate placing on the record that he

1 is not going to testify.

2 And I also discussed with Mr. Ramamoorthy with Mr.  
3 Vijay this morning the -- the fact that there are two  
4 interpreters here, and I asked him with Mr. Vijay if he wanted  
5 to continue with Mr. Vijay or to go and use Ms. Kumar because,  
6 you know, she was fine before and I thought did a pretty good  
7 job of interpreting, and he indicated to me through Mr. Vijay  
8 that he wanted to keep Mr. Vijay.

9 So -- and if you wanted to voir dire my client or if  
10 you wanted me to, I could do that as well.

11 THE COURT: So Mr. Ramamoorthy, why don't you stand  
12 please. And let me just ask you, did you hear what Mr. Amberg  
13 just said?

14 DEFENDANT RAMAMOORTHY: Yes, Your Honor.

15 THE COURT: And do you prefer to have Mr. Vijay  
16 continue as your interpreter?

17 DEFENDANT RAMAMOORTHY: Yes, Your Honor.

18 THE COURT: And have you been satisfied with his  
19 interpretation of the proceedings so that you can understand  
20 everything that's going on?

21 DEFENDANT RAMAMOORTHY: Yes, Your Honor.

22 THE COURT: All right. Well, then I will allow you  
23 to continue to use Mr. Vijay as your interpreter and we'll  
24 proceed accordingly.

25 And I apologize to Ms. Kumar for the inconvenience of

1 traveling here today. It was necessary because of the fact  
2 that Mr. Ramamoorthy was continuing -- was considering  
3 testifying. Perhaps I should take a moment and discuss that  
4 briefly with Mr. Ramamoorthy as well.

5 Mr. Ramamoorthy, do you understand that you have the  
6 right to testify in this case?

7 DEFENDANT RAMAMOORTHY: Yes, Your Honor.

8 THE COURT: You could tell your story and your  
9 attorney could ask you any questions that he wanted to ask you  
10 about the case and you could say whatever you wanted to say in  
11 this trial. Do you understand that?

12 DEFENDANT RAMAMOORTHY: Yes, Your Honor.

13 THE COURT: This decision about whether to testify is  
14 your decision only. By that I mean it's not up to your lawyer,  
15 it is up to you. Do you understand that?

16 DEFENDANT RAMAMOORTHY: Yes, Your Honor.

17 THE COURT: What is your decision about whether you  
18 want to testify or you do not want to testify?

19 DEFENDANT RAMAMOORTHY: No, Your Honor, I'm not...

20 (Brief pause)

21 MR. AMBERG: Can I -- can I voir dire as well, Your  
22 Honor, a little bit here?

23 THE COURT: You may, loudly.

24 MR. AMBERG: Could you please ask Mr. Ramamoorthy did  
25 he understand what the Court just asked him about his decision

1 to testify.

2 (Brief pause for interpretation)

3 MR. AMBERG: Well, why don't you -- then you need to  
4 say that on the record so the judge --

5 THE COURT: Speak into the microphone, sir, Mr.  
6 Vijay.

7 THE INTERPRETER: I have explained to him clearly  
8 that he has the right and he understood that. And then I asked  
9 him was it his decision and not influenced by anybody else, and  
10 he said yes, it was his decision.

11 And then I asked him, the judge was asking to tell  
12 the judge that it was his decision, and he asked me, "You go  
13 ahead and tell the judge exactly because if I say something,  
14 that it will not come out right in the proper form." So he  
15 says, "You tell the judge that it was my decision and I do not  
16 want to testify today."

17 THE COURT: Okay. Well, I appreciate that. I would  
18 like to nevertheless have the record show that Mr. Ramamoorthy  
19 is answering the question. He may answer it in Tamil if he  
20 wishes, and then I would -- if he does answer it in Tamil, then  
21 you may answer it in English. But I want Mr. Ramamoorthy to  
22 answer my question. Do you, Mr. Ramamoorthy, wish to testify  
23 in this trial, yes or no?

24 DEFENDANT RAMAMOORTHY: No, Your Honor. No, Your  
25 Honor.

1 THE COURT: All right. Thank you. And you do  
2 understand that if you do not testify, the fact that you do not  
3 testify cannot be used against you. You understand that,  
4 right?

5 DEFENDANT RAMAMOORTHY: Yes, Your Honor.

6 THE COURT: And I will tell the jury that that is the  
7 law. Thank you.

8 DEFENDANT RAMAMOORTHY: Thank you.

9 THE COURT: Are there any other questions that either  
10 attorney wishes to ask at this point?

11 MS. SMITH: No, Your Honor. But as I understand the  
12 law, the defendant has to be given an opportunity to change his  
13 mind before the close of evidence for the defense, so I just  
14 want the record to reflect that we ought to just check back  
15 after the defense rests.

16 MR. AMBERG: I agree.

17 THE COURT: Let's make sure that we do that. All  
18 right. You may be seated.

19 So we have -- we have on the stand Ms. Natarajan and  
20 she is going to be questioned on redirect by Mr. Amberg, and  
21 then if there are any additional witnesses you may call them,  
22 and then we will proceed to closing arguments. I think we  
23 should probably take a break after evidence is closed. Does  
24 the government intend to put any rebuttal case?

25 MS. SMITH: No, Your Honor.

1 THE COURT: Okay. All right. Is there anything else  
2 we should take up or should we bring in the jury?

3 MS. SMITH: We're ready for the jury.

4 MR. AMBERG: Ready for the jury.

5 THE COURT: Bring in the jury.

6 (Jury entered the courtroom at 9:29 a.m.)

7 THE COURT: Good morning, ladies and gentlemen.

8 THE JURORS: Good morning.

9 THE COURT: You may be seated. Welcome, ladies and  
10 gentlemen.

11 I'm sure that you noticed and perhaps you spoke with  
12 Mr. Hester and that he has been excused because of some issues  
13 that he had regarding his vehicle and some medical issues. And  
14 so we did select two additional jurors as alternates here so he  
15 will be one of our alternates. We'll still need to select at  
16 random one other alternate because only 12 of you will  
17 deliberate in this case. But I did want to let you know that  
18 that is what the decision was regarding his service. And so we  
19 thank him for the time and the attention that he devoted to the  
20 case as well as we thank all of you for what you've devoted to  
21 the case so far.

22 So we were in the middle of the testimony of a  
23 witness and we will presume -- we will continue with that  
24 witness.

25 Are you ready, Mr. Amberg?



1 MR. AMBERG: Yes, Your Honor.

2 THE COURT: All right. You may call your witness.

3 All right. Please come forward.

4 G E E T H A N J A L I N A T A R A J A N

5 was thereupon recalled as a witness herein, and after being  
6 previously first duly sworn to tell the truth and nothing but  
7 the truth, resumed the stand and testified on her oath as  
8 follows:

9 THE COURT: All right. You are still under oath from  
10 yesterday and you may be seated, Ms. Natarajan.

11 MR. AMBERG: May I proceed, Your Honor?

12 THE COURT: You may.

13 MR. AMBERG: Thank you.

14 REDIRECT EXAMINATION

15 BY MR. AMBERG:

16 Q. Ma'am, good morning.

17 A. Good morning.

18 Q. I just have a few questions, okay?

19 A. (Nods in the affirmative.)

20 Q. And please just ask -- answer in the best that you can.

21 A. Okay.

22 Q. I want to talk about the questions that were asked to you  
23 by the prosecutor.

24 A. Okay.

25 Q. Okay. I want to first ask you about your role in this

1 marriage with Mr. Ramamoorthy. Do you believe that you are a  
2 subservient person to him?

3 A. Can you explain that word to me?

4 Q. Is he in charge of your relationship?

5 A. Are you asking me is he asking me to be with him, is that  
6 is what you are trying to ask?

7 Q. Well, let me -- let me back that up. Are you -- I think  
8 you've testified you and him are both from India?

9 A. Yes.

10 Q. Okay. And you met and fell in love in India?

11 A. Yes, we both, yes.

12 Q. Is the man in charge of the relationship?

13 A. No.

14 Q. Is it an equal relationship?

15 A. Yes, it is.

16 Q. Okay. Is Mr. Ramamoorthy in charge of you?

17 A. I don't understand that question.

18 Q. Are you allowed to have your own thoughts?

19 A. Yes.

20 Q. Maybe let's talk about an example of this.

21 A. Okay.

22 Q. What is your last name?

23 A. Natarajan.

24 Q. What is his last name?

25 A. Ramamoorthy.

1 Q. In your culture is the woman supposed to take the man's  
2 last name?

3 A. If they are married, yes.

4 Q. Why is your name not the same name as his?

5 A. I wanted to have my own father's name as my last name. I  
6 asked Prabhu for this after our marriage got registered and he  
7 agreed to it, so I am allowed to have my father's last name.

8 Q. Okay.

9 A. That is what I wished.

10 Q. Is your marriage equal between you and him?

11 A. Yes.

12 Q. He doesn't have control over you?

13 A. No.

14 Q. What about divorce? If you wanted to divorce him, could  
15 you divorce him?

16 A. If I want to, yes.

17 Q. Okay. Now, are you just here to have his children?

18 A. What do you mean by that?

19 Q. Do you remember the prosecutor asking you questions about  
20 that yesterday?

21 A. Yes.

22 Q. Okay. Do you think you're here just to have Mr.  
23 Ramamoorthy's children?

24 A. No.

25 Q. Okay.

1 A. That -- that is part of our life.

2 Q. I'm sorry, what did you just say?

3 A. That is just part of our life, like we have to be  
4 together. Children is also a part of our life.

5 Q. Is it fair to say children are part of a marriage?

6 A. Yes.

7 Q. Okay. You have your own career?

8 A. Yes, I do.

9 Q. And what is your career?

10 A. I work as a business analyst.

11 Q. Okay. And you went to college?

12 A. Yes, I did.

13 Q. Okay. If Mr. Ramamoorthy tells you to do something or not  
14 do something, are you just going to do whatever he says?

15 A. No. If -- if I'm doing something wrong, he would say.

16 Apart from that, we are not working for -- for the same people,  
17 so he would never tell me what to do in my work or in my life,  
18 wherever I go.

19 Q. Okay. Even right now as you testify in this case today --

20 A. Yes.

21 Q. -- are you doing this of your own free will?

22 A. Yes, I wanted to do this.

23 Q. And if you saw him do something wrong, would you be here  
24 testifying on his behalf today?

25 A. Not on behalf.

1 Q. Whose behalf would you have testified on?

2 A. Maybe government's.

3 Q. Now, the prosecutor brought up how you had seen documents  
4 in this case. Do you remember that?

5 A. From yesterday?

6 Q. From when -- when you were cross-examined yesterday --

7 A. Yeah.

8 Q. -- the government brought up that you had discussed on a  
9 jail call that you had seen documents in this case. Do you  
10 remember that?

11 A. Documents? Yesterday, yes, she was asking me that  
12 question, yes.

13 Q. Okay. Were those documents the -- the Complaint and other  
14 charging documents in this case?

15 A. I don't know what -- what is that called, but it was given  
16 to me by his lawyer, Richard O'Neill, and it -- it -- it stated  
17 what is the charge that he's accused of and all the  
18 conversation that happened during the FBI. FBI have written  
19 all those statements in that document and I got to read that  
20 document.

21 Q. Okay. And was that -- that was something that wasn't  
22 given by me, that was from the prior lawyer?

23 A. Yeah, the lawyer who was assigned to my husband during the  
24 arrest to say on January 3rd it was happened.

25 Q. Okay. And do you know if that was just a public document

1 that anybody could look at?

2 A. At that point I don't know what are all those documents,  
3 even I don't know what it is called, but I know it -- it -- it  
4 had the charges in them for him.

5 Q. Okay. It was something that the Court was talking about  
6 when you were in court?

7 A. Yeah, that is what they used to read when they were  
8 calling Prabhu on the stage.

9 Q. Okay. So that was done in open court?

10 A. Yeah, it was upstairs.

11 Q. Here?

12 A. Here, yes.

13 Q. Okay. Have you ever seen any police reports in this case?

14 A. No.

15 Q. Did you watch the interview video in this case?

16 A. No.

17 Q. Did you see the transcript of the interview video in this  
18 case?

19 A. Interview with the transcript?

20 Q. Yes?

21 A. No, no.

22 Q. Okay. How long after your husband was charged did I  
23 become his lawyer, do you remember?

24 A. Oh, yes. Actually I have -- I was the one looking for the  
25 lawyer because there was no one here for us to help. On

1 January 3rd he got arrested. I was looking for some lawyer's  
2 help. I think January 6th is -- I -- in my mind I have  
3 January 6th as the date that I was able to confirm Mr. Amberg  
4 as my husband's lawyer.

5 Q. Okay. Have I ever given you a single page of discovery in  
6 this case?

7 A. No.

8 Q. Have I ever let you watch any videos in this case?

9 A. No.

10 Q. Have I told you that's okay to do that?

11 A. No.

12 Q. What did I tell you?

13 A. Actually I got not even in -- we never discussed about  
14 this case because you -- you were advising us to not to discuss  
15 about this case, which you promised that it will help us by not  
16 discussing, discussing will not help us, so...

17 Q. Okay. And did you honor what I told you to do?

18 A. Yes.

19 Q. Okay. What did I tell you to do about testifying?

20 MS. SMITH: I'm going to object here, Judge. The --  
21 the defense counsel is testifying here.

22 MR. AMBERG: I'm just trying to --

23 MS. SMITH: Also eliciting hearsay.

24 THE COURT: All right. The subject of redirect needs  
25 to be directly connected to what was gone into on

1 cross-examination, so refer to what was on cross-examination  
2 and then ask your question.

3 MR. AMBERG: Okay.

4 BY MR. AMBERG:

5 Q. I want to talk about some of the conversations that you  
6 had with your husband.

7 A. Okay.

8 Q. Okay. There was one conversation where you talked about  
9 DNA, if you remember?

10 A. Actually I remember talking to him two times --

11 Q. Okay.

12 A. -- about DNA.

13 Q. Okay. Were you worried that there would be DNA on him  
14 because the -- the lady was laying on him?

15 A. No. We were talking about the DNA in general, not  
16 specific to this case. Because we don't know about any law  
17 process, so I was telling him this is what next happening, so  
18 we are waiting for a DNA test results while we were waiting for  
19 the DNA test results.

20 Q. Okay.

21 A. He was not with me to understand everything that is  
22 happening outside the world so I -- I have to tell him what is  
23 happening in this case, so every day he asked me what -- what  
24 is the focus.

25 MS. SMITH: Objection, Your Honor. She's offering a



1 narrative here.

2 MR. AMBERG: I can move on, Your Honor.

3 THE COURT: Sustained.

4 MR. AMBERG: If I could have one second, Your Honor.

5 THE COURT: Go ahead.

6 (Brief pause)

7 MR. AMBERG: One last thing.

8 BY MR. AMBERG:

9 Q. I want to talk about what you and the -- the prosecutor  
10 talked about about when you had a jail call with Mr.  
11 Ramamoorthy about his story. Do you remember that?

12 A. His story means?

13 Q. Okay.

14 THE COURT: The question is whether you remember  
15 that.

16 BY MR. AMBERG:

17 Q. Do you remember that?

18 A. I really don't understand the question. What --

19 THE COURT: Rephrase your question.

20 MR. AMBERG: Sure. Sure.

21 BY MR. AMBERG:

22 Q. Yesterday on cross-examination the government asked some  
23 questions about a jail call that took place between you and  
24 your husband about his story. Do you remember that or not?

25 A. No, I don't remember.

1 Q. Okay.

2 A. His story means?

3 Q. Okay. Let me ask the question.

4 A. Yeah.

5 Q. Okay.

6 A. Is it possible to see the transcription or conversation or  
7 play the audio so that I can listen?

8 Q. Yes.

9 (Brief pause)

10 MR. AMBERG: May I approach, Your Honor?

11 THE COURT: You may.

12 BY MR. AMBERG:

13 Q. I'm going to show you something here. Want you to take a  
14 read where it's highlighted and let me know when you're done.

15 (Brief pause)

16 A. Yes, I'm done.

17 Q. Okay.

18 MR. AMBERG: May I approach, Your Honor?

19 THE COURT: You may.

20 BY MR. AMBERG:

21 Q. Now, ma'am, you've had an opportunity to look at that?

22 A. Yes.

23 Q. Does that refresh your memory about a conversation?

24 A. Yes.

25 Q. Okay. I want to talk about that conversation.

1 A. Okay.

2 Q. Okay. In this conversation were you trying to tell your  
3 husband to change his story?

4 A. No.

5 Q. Okay. What was the context of that conversation?

6 A. Okay. He was trying to tell me that is when you are --

7 MS. SMITH: Objection as to hearsay. She can only  
8 talk about what she knows, not what he said.

9 MR. AMBERG: I don't think --

10 A. Okay.

11 MR. AMBERG: Your Honor, I don't think it goes to the  
12 truth of the matter asserted. I think it goes to the  
13 explanation of what she thought was happening, and it was  
14 brought up on impeachment but I think that she should be  
15 allowed to --

16 THE COURT: I think you need to direct her attention  
17 to certain parts of the conversation, and if you need to ask  
18 her to explain what she meant or what she understood, you may  
19 do so.

20 MR. AMBERG: Okay. Thank you, Your Honor.

21 BY MR. AMBERG:

22 Q. Without telling me what was said, what -- what was the  
23 context of that conversation?

24 A. It was explaining him the law so when a statement is  
25 given, it is given, you cannot change the statement. So when

1 your attorney meets you who is not aware of what happened in  
2 the interview because I hire him on January 6th and the  
3 incident happened on January 3rd, so try explain him what  
4 happened there, do not change anything. And he didn't intend  
5 to change anything. I was just giving him that this is how the  
6 law works because I read few forums about the -- the law of the  
7 United States during this case and I got to know what the  
8 statute is which cannot be changed, so that is all I was trying  
9 to tell him.

10 Q. And that's why you specifically brought up the statute?

11 A. Yes.

12 Q. Okay. Were you trying it -- in any way to tell him to  
13 change his story?

14 A. I -- no, I did not.

15 Q. Okay. Have you ever told him this entire time to change  
16 his story?

17 A. No.

18 Q. Have you ever even asked him what his story was from what  
19 happened?

20 A. No.

21 Q. Okay. And why is that?

22 A. You are asking me why I didn't ask him the story?

23 Q. Yes.

24 A. Because I was not allowed to talk about it.

25 Q. Okay.

1 MR. AMBERG: No further questions, Your Honor. Thank  
2 you, ma'am.

3 THE COURT: All right. Thank you very much.

4 MR. AMBERG: Oh, Your Honor, I apologize. I -- I  
5 apologize for -- for interrupting you. Can I -- can I talk to  
6 Mr. Ramamoorthy for one second?

7 THE COURT: You may.

8 MR. AMBERG: Thank you.

9 (Brief pause)

10 MR. AMBERG: No further questions, Your Honor. Thank  
11 you very much.

12 THE COURT: All right. Thank you.

13 Ladies and gentlemen, I'd like to ask you if you have  
14 any questions for this witness. If you do, write them down and  
15 I'll take them up with counsel.

16 (Brief pause)

17 THE COURT: Counsel approach.

18 (Sidebar discussion as follows):

19 THE COURT: A juror asks, "Did you sleep on the plane  
20 ride?" Any objection?

21 MS. SMITH: No objection.

22 MR. AMBERG: No objection.

23 THE COURT: A juror asks, "What is the witness's  
24 credentials/expertise that supports an evaluation of the  
25 defendant's ability to speak and understand English? The

1 60 percent comment, does the witness have a 100 percent command  
2 of the English language?"

3 MS. SMITH: I don't think she -- I would object to  
4 that question. She cannot testify as to how much he  
5 understands. She has --

6 THE COURT: Well, the question -- just a minute. The  
7 question isn't how much does -- exactly how much does he  
8 understand. The question is, "What is the witness's  
9 credentials or expertise that supports an evaluation of the  
10 defendant's ability to speak and understand English? The  
11 60 percent comment, does the witness herself have a 100 percent  
12 command of the English language?"

13 MS. SMITH: Okay.

14 MR. AMBERG: It's almost like two different  
15 questions.

16 MS. SMITH: If it's written as -- okay. I guess I  
17 don't have any objection to that.

18 THE COURT: The way I see this question, I think the  
19 juror is asking to try to understand what is the basis upon  
20 which she can rest that judgment about how well he understands  
21 English, and I think it's a fair question.

22 MR. AMBERG: And I agree. I -- I -- I actually  
23 think -- I think there's two, Your Honor, two in there, but  
24 then the second question is how well does she understand  
25 English.

1 THE COURT: "Does the witness have a hundred percent  
2 command of the English language?"

3 A juror asks, "Did you both have English language  
4 learning while in school in India?" I assume that means both  
5 her and her husband.

6 MS. SMITH: I do too.

7 THE COURT: Any objection?

8 MS. SMITH: No.

9 MR. AMBERG: No objection.

10 THE COURT: All right.

11 (End of sidebar discussion)

12 THE COURT: Ms. Natarajan, there are three questions  
13 from the members of the jury. The first question is, "Did you  
14 sleep on the plane ride?"

15 THE WITNESS: Yes, for the first part, yes.

16 THE COURT: The next question is two separate  
17 questions, and I'm going to rephrase this a little bit. Do you  
18 have any credentials or expertise that would support your  
19 evaluation of Mr. Ramamoorthy's ability to speak and understand  
20 English? Do you have any credentials or expertise that support  
21 your evaluation of the defendant's ability to speak and  
22 understand English?

23 THE WITNESS: Are you asking me how am I evaluating  
24 his knowledge in English?

25 THE COURT: The question is whether you have any

1 credentials or expertise in evaluating English. Do you have  
2 any credentials or expertise in evaluating --

3 THE WITNESS: Like a certificate?

4 THE COURT: I'm sorry.

5 THE WITNESS: Like a certificate or a study?

6 THE COURT: Yes.

7 THE WITNESS: Well, in my college I have done some  
8 English classes, yes.

9 THE COURT: All right. The -- and that would be  
10 your -- that's what you base your evaluation of his ability to  
11 speak English?

12 THE WITNESS: Correct. They have taught how to speak  
13 and everything in my --

14 THE COURT: Say that again. I'm sorry.

15 THE WITNESS: They have taught us how to speak in  
16 English to the strangers and how to gesture and everything. We  
17 had classes on it.

18 THE COURT: Thank you. You made the statement that  
19 you felt that he had a 60 percent command of English, is that  
20 right?

21 THE WITNESS: Yeah, approximately, yes.

22 THE COURT: Do you yourself have a 100 percent  
23 command of English?

24 THE WITNESS: I wouldn't say that because I -- I  
25 now -- I have -- I have difficulties in understanding few words



1 when people are talking, so...

2 THE COURT: All right. Thank you. A juror asks did  
3 both you and Mr. Ramamoorthy have English language learning  
4 while in school in India?

5 THE WITNESS: Do me and Prabhu was learning English,  
6 that's what you're asking?

7 THE COURT: Yes.

8 THE WITNESS: In books?

9 THE COURT: In school. The question is whether or  
10 not you studied any English language learning while in school  
11 in India.

12 THE WITNESS: Yeah, when -- when we were in school  
13 like 10th grade, yes.

14 THE COURT: You would -- you would take English  
15 classes in school?

16 THE WITNESS: Yes. It -- it was --

17 THE COURT: Both you and --

18 THE WITNESS: -- it was always optional, yes.

19 THE COURT: You say it was optional?

20 THE WITNESS: Yeah, over our mother tongue. Either  
21 we can choose our mother tongue or we can choose English, we  
22 have that option.

23 THE COURT: And you took those classes yourself?

24 THE WITNESS: I took, yes.

25 THE COURT: And did Mr. Ramamoorthy take those

1 classes?

2 THE WITNESS: While in college he started to take  
3 English.

4 THE COURT: Only in college?

5 THE WITNESS: Yes.

6 THE COURT: All right. Any followup questions from  
7 the attorneys?

8 MS. SMITH: No, thank you.

9 MR. AMBERG: None, Your Honor.

10 THE COURT: All right. May this witness be excused?

11 MR. AMBERG: Yes, Your Honor.

12 THE COURT: All right. Thank you very much for your  
13 testimony. You may be excused. You may step down.

14 THE WITNESS: Thank you.

15 (Witness excused at 9:55 a.m.)

16 THE COURT: All right. Mr. Amberg, do you wish to  
17 call any additional witnesses?

18 MR. AMBERG: No, Your Honor.

19 THE COURT: Thank you very much. Does the defense  
20 rest?

21 MR. AMBERG: We rest, Your Honor.

22 THE COURT: All right. So, ladies and gentlemen, the  
23 defense has rested.

24 And let me just ask Ms. Smith on behalf of the  
25 government, do you wish to present any rebuttal evidence?

1 MS. SMITH: We do not. Thank you.

2 THE COURT: So, ladies and gentlemen, the evidence is  
3 closed at this point. The next step would be for us to allow  
4 the attorneys to present their closing arguments to you.

5 Before we do so, let's just take a brief break  
6 because I'm going to go over with them the -- the jury  
7 instructions that I'll be giving you and a few preliminary  
8 matters. So let's take a break before we have our closing  
9 arguments.

10 Please rise for the jury. Don't discuss the case, as  
11 you know.

12 (Jury was excused at 9:56 a.m.)

13 THE COURT: You may be seated.

14 One matter we should address is the issue of Mr.  
15 Ramamoorthy's decision not to testify because the evidence has  
16 closed. And so Mr. Ramamoorthy, let me ask you again, do you  
17 understand that you do have the right to testify?

18 DEFENDANT RAMAMOORTHY: Yes, Your Honor.

19 THE COURT: And do you wish to testify or do you not  
20 wish to testify?

21 DEFENDANT RAMAMOORTHY: Not wish to, Your Honor.

22 THE INTERPRETER: He's saying that he does not wish  
23 to testify.

24 THE COURT: All right. Thank you very much. Does  
25 either counsel wish to ask any followup questions?

1 MS. SMITH: No thank you.

2 THE COURT: All right. Thank you very much. You may  
3 be seated, Mr. Ramamoorthy.

4 Let me ask counsel, what is your position with  
5 respect to jury instructions and whether or not you would want  
6 me to give any or some of the instructions before or after you  
7 give your closing statements.

8 MS. JAWAD: Your Honor, I'd prefer that you give them  
9 before the closing statements.

10 THE COURT: Mr. Amberg?

11 MR. AMBERG: I would prefer it afterwards. I can't  
12 believe we're finally disagreeing on something here. But I  
13 think that, you know, right now we've just gotten done  
14 hearing -- hearing the testimony, we get right into these  
15 closings, and then, Your Honor, it'll be sort of towards the  
16 lunchtime hour, you read those instructions, then they can go  
17 right into doing their deliberations. I think it would be a  
18 fine oiled legal machine.

19 MS. JAWAD: Your Honor, I do think it's helpful when  
20 the jury has a basic overview of the law when they're analyzing  
21 the closing argument. That's the basis of my preference.

22 THE COURT: Well, the jury sometimes benefits from  
23 hearing what the elements of the offenses are, and since we're  
24 going to agree to these jury instructions before you do your  
25 closings, I don't think there would be any problem with counsel

1 on either side referring to the written jury instructions.  
2 What do you all feel about that? In other words, you may say  
3 that the Court will instruct you that the elements are X, Y and  
4 Z.

5 MR. AMBERG: I have no objection. I was intending on  
6 talking about the instructions.

7 MS. JAWAD: I have no problem with that as well.

8 THE COURT: All right. Well, I'm going to deliver  
9 them after your arguments, largely just because that's what the  
10 defendant is seeking and he does not bear any burden of proof,  
11 and so I'm going to go along with that.

12 So let's just take them here anyway so we won't use  
13 up -- won't use up too much time. The -- there was an issue  
14 regarding whether or not those elements with respect to the  
15 definition of "sexual act" should include the subsections (A)  
16 and (B) and (D) because those sexual acts are not at issue in  
17 this case. What I understood before was that Mr. Amberg  
18 preferred not to mention (A), (B) and (D), but the government  
19 made the argument that because those are part of the statute,  
20 that it would be an error to exclude them from the definition  
21 of "sexual act." Is that still the position of the parties?

22 MS. SMITH: Yes, Your Honor. And I would also note  
23 that you read this to the jury in the beginning of the case as  
24 well.

25 THE COURT: I did. All right. Well, I do think it's

1 a little bit confusing, but Mr. Amberg, do you wish to address  
2 it?

3 MR. AMBERG: Yeah. I think it's -- it's not just a  
4 little bit confusing. You're putting all these sexual acts in  
5 there. You're throwing in all these real strong language.  
6 You're talking about things that are done to somebody under  
7 16 years old, penis and vulva, penis and anus. None of this  
8 has anything to do with this case, but when you hear it and you  
9 read it, it just sounds so terrible. I don't see how it's  
10 relevant in this case.

11 I know Your Honor read it in the beginning and I  
12 thought that was proper at the time, but now that the proofs  
13 are in, I don't think that the government's going to be arguing  
14 (A), (B) or (D), so why should the jury hear this prejudicial  
15 information that serves no purpose in this case?

16 THE COURT: Any response?

17 MS. SMITH: My response is that this is -- this is  
18 how the statute is worded. It is the statutory language and  
19 it's proper to instruct the jury how the statute defines the  
20 term "sexual act."

21 THE COURT: If the defendant doesn't want those parts  
22 of the instruction to be mentioned and they are not relevant to  
23 this case, in what sense if -- in what sense is it wrong to not  
24 mention them? I'm trying to understand why -- why -- how can  
25 it be an error that would affect the actual result of the case?

1 MS. SMITH: I don't -- I don't know that it is  
2 necessarily reversible error, but I think if you are limiting  
3 the statutory definition to one means, then perhaps -- there's  
4 more than one -- sexual act means more than one thing, and so  
5 to direct the jury that sexual act only means this one thing is  
6 just not -- not a proper summary of the law. I -- I -- I  
7 don't -- I mean maybe we can compromise this and say, "The term  
8 'sexual act' means, among other things," and then read letter  
9 (C).

10 THE COURT: Let's do that.

11 MR. AMBERG: Your Honor, I -- I would object to that  
12 though too. It has to be -- it has --

13 THE COURT: What if we were to say, "The terms  
14 'sexual act' is defined in pertinent part to mean"?

15 MR. AMBERG: I just want to make sure the jury  
16 understands that they are limited to deciding this case --  
17 bless you -- and that the allegations of acts in this case to  
18 that one section because if -- if the jury is told, hey,  
19 "sexual act" could mean a lot of different things or there's  
20 some additional things, then they might find or make a finding  
21 based on that and not what the law is.

22 Now, I mean as part of my Rule 29 motion I'll argue  
23 that the vast majority of the statute is not proven. And I  
24 don't think the government's going to argue that the  
25 complainant was under 16. I don't think they're going to argue

1 that there was this type of contact between mouth and penis or  
2 penis and vulva or anus.

3 And so I don't -- I'm just trying to think. I don't  
4 think it would be -- you know, maybe some other cases you don't  
5 have to throw the entire statute in there. For purposes --  
6 this -- this statute encompasses different acts. I mean the  
7 only act we're dealing with is (C), that's what we're dealing  
8 with. Why -- why prejudice this -- this jury with these other  
9 definitions or leave it out there like -- to them to say, "Hey,  
10 maybe something that's not in here is a sexual act and this is  
11 just up to you." That's not fair for Mr. Ramamoorthy. It  
12 should be did he do (C) or did he attempt to do (C). That's --  
13 that's -- I -- I can't see any reason for including anything  
14 else like that.

15 MS. SMITH: My response is that if there's a  
16 disagreement between the parties, my position is that the  
17 statutory language should be read as is.

18 THE COURT: Mm-hmm. I think the main point is that  
19 the jury understand a correct statement of the law, and as it  
20 relates to the facts of this case, for them to understand that  
21 (C) is the act, the "sexual" -- the definition of "sexual act,"  
22 that is, the pertinent and relevant definition of "sexual act,"  
23 is sufficient to make certain that the jury understands what  
24 the law is.

25 I also want to make it clear, and Mr. Amberg, you



1 need to make it clear, do you -- if this is an error, the  
2 government believes it's not reversible error that -- but if it  
3 is an error, you waive any error challenge to that, do you not,  
4 Mr. Amberg?

5 MR. AMBERG: Well, of course if it's an error to do  
6 that, I'm waiving it because I don't want the stuff in there.

7 THE COURT: Well, I want to make that clear.

8 MR. AMBERG: Clearly, yes. Yes, that's -- that would  
9 be -- if there's any error in just reading parts of the  
10 charging statute in the closing final instructions, we would  
11 waive any error when it comes to how it is read so long as it's  
12 read the way that we request it.

13 THE COURT: I don't think it is error because, as I  
14 said, I think the jury will understand the applicable law to  
15 this case. And I also think that there's at least a  
16 possibility that the use of somewhat inflammatory and -- and  
17 more difficult language could divert their attention from what  
18 the case is about. So I'm comfortable with instructing them  
19 that "sexual act" means (C), okay? That's what I'm going to do  
20 on that one.

21 Now, we have to also deal with the instructions  
22 regarding the defendant's testimony. So on page 24 we have the  
23 Jury Instruction 16. That's the one where the Court indicates  
24 that the defendant has an absolute right not to testify, so we  
25 will deliver that one. We will not deliver the instruction on

1 page 25 because that was to be used if the defendant testified.

2 Okay. Any objection to that?

3 MS. SMITH: No, Your Honor.

4 MR. AMBERG: No.

5 THE COURT: I am not going to use the "False  
6 Exculpatory Statement" jury instruction on page 28.

7 MS. SMITH: And may I just say for the record that I  
8 do object to you removing that from the set?

9 THE COURT: All right. Well, let me -- I can  
10 indicate my reason for this is that although the -- the  
11 evidence was that the defendant gave inconsistent statements,  
12 the evidence was not clear that the -- which statement was  
13 false. And so to -- for the Court to say that the testimony  
14 was that the defendant gave a false exculpatory statement would  
15 not be an accurate statement, and that's why I'm not going to  
16 give that instruction.

17 Are there any other instructions that either side  
18 believes present any problems?

19 MS. SMITH: Not from the United States.

20 MR. AMBERG: No, Your Honor.

21 THE COURT: Okay. Very good. So we'll deliver these  
22 to the jury after you do your closings.

23 Does -- do you wish to take a break before we do our  
24 closings? Do you want to take a brief break, Counsel, for  
25 yourselves?

1 MS. JAWAD: Yes, Your Honor.

2 MR. AMBERG: Yes, please, Your Honor.

3 THE COURT: All right. Let's just take about a  
4 ten-minute break, just make it quick, and we'll be back on the  
5 record in ten minutes.

6 THE LAW CLERK: All rise. Court is in recess.

7 (Court in recess at 10:09 a.m.)

8 (Proceedings resumed at 10:22 a.m., all parties  
9 present, jury not present)

10 THE LAW CLERK: Court recalls Case No. 18-20027,  
11 United States of America versus Prabhu Ramamoorthy.

12 Counsel, will you please replace your appearances on  
13 the record?

14 MS. JAWAD: Yes. Good morning again, Your Honor.  
15 Amanda Jawad and Maggie Smith on behalf of the United States.  
16 With us at counsel table is Meghann O'Connor, a paralegal from  
17 our office, and Special Agent Kevin -- Kyle Dodge with the FBI.

18 MR. AMBERG: And good morning, Your Honor. Again,  
19 Jim Amberg on behalf of Mr. Ramamoorthy. Directly to my right  
20 is Mr. Victor Mansour, co-counsel in the case. Next to him is  
21 Mr. Ramamoorthy and next to Mr. Ramamoorthy is Mr. Vijay, his  
22 translator.

23 THE COURT: Well, good morning again everyone. Are  
24 we ready to present our closings?

25 MS. JAWAD: Yes, Your Honor.

1 MR. AMBERG: Yes, Your Honor.

2 THE COURT: Let's bring in the jury.

3 (Jury entered the courtroom at 10:24 a.m.)

4 THE COURT: Good morning again, ladies and gentlemen,  
5 and thank you for your patience. We had a number of  
6 preliminary matters to take care of and we were able to do  
7 that.

8 I wanted to let you know -- you may be seated --  
9 we're going to have our closing arguments at this time, and the  
10 order will be that the government will go first and present  
11 their closing argument and then the defendant will follow that.  
12 Government is allowed to present a rebuttal argument as well  
13 because they bear the burden of proof. And that will complete  
14 the closing arguments and then I will instruct you in the law  
15 in this case.

16 Are we ready to proceed?

17 MS. JAWAD: Yes, Your Honor.

18 THE COURT: You may do so.

19 MS. JAWAD: Shellshocked. Frozen. Sobbing. Visibly  
20 shaken up. Look of disbelief. Agitated. These are not words  
21 that people use to describe someone who just woke up from a bad  
22 dream. These are words that describe real trauma, the trauma  
23 that results from the unmistakable feeling of a stranger's  
24 fingers inside of the most intimate part of your body.

25 Ladies and gentlemen, you heard from Laura on Monday.

1 She told you that she was visiting her boyfriend on a work trip  
2 in San Diego. She told you that on her way back to Detroit she  
3 arrived at the San Diego airport mid-afternoon for a flight  
4 that would take off late in the evening.

5 She told you that she had several drinks at the  
6 airport that day. She told you that even though she was  
7 feeling buzzed, she was able to board both flights, first from  
8 San Diego to Las Vegas, then from Las Vegas to Detroit.

9 She told you that when she got on the flight to  
10 Detroit, she curled up in her blanket. She used the blanket to  
11 cover her body and she leaned into the window seat. She told  
12 you that she fell asleep before the flight even took off.

13 She told you that the next thing she remembers is  
14 starting to wake up and feeling something on her body. She  
15 wasn't quite fully awake yet. But the next thing she knew, she  
16 felt the defendant's fingers shoving in and out of her vagina.  
17 She told you that when the defendant realized that she was  
18 awake, the defendant turned around and pretended to sleep on  
19 his wife. She told you that she looked down and found her  
20 pants undone, her shirt untied at the bottom and unbuttoned,  
21 later realizing that her bra was unhooked in the back.

22 She told you that in that moment she froze, that she  
23 didn't know what to do, that she was scared. She told you all  
24 of this in no uncertain terms. She was sure about what she saw  
25 and sure about what she felt. And if you believe Laura, ladies

1 and gentlemen, you are beyond a reasonable doubt that the  
2 defendant is guilty.

3 But you don't have to just take Laura's word for it  
4 because Laura's testimony is corroborated, it's supported by  
5 the other evidence in this case. And let's take a look at some  
6 of the evidence that we've seen.

7 We know from the flight records that Laura, the  
8 defendant and the defendant's wife all had seats in row 27 in  
9 the back of Flight 788. We know from the flight records that  
10 the defendant was assigned to the seat in the aisle but ended  
11 up in the middle next to Laura.

12 We know that Laura boarded the flight with a blanket.  
13 Multiple witnesses describe the blanket, including -- and the  
14 defendant and his wife also mentioned a blanket and we have  
15 these pictures here.

16 We know that Laura texted her boyfriend immediately  
17 after the assault. Special Agent Erkkinen told you that he saw  
18 Laura take these screen shots from her phone directly, and the  
19 date of these screen shots matches up with the date and time of  
20 the assault. And you can even see on these text messages that  
21 they were not delivered, which corroborate that they were sent  
22 from the air.

23 We know that after the assault Laura's shirt was  
24 untied, we know from this picture, and it was unbuttoned at the  
25 top. Multiple witnesses, including flight attendants and the

1 airport officers who responded to the scene, confirmed this as  
2 well.

3 We also know about all the things the defendant said.  
4 You saw and heard those clips. We know that one of the first  
5 thing he says -- first things he said when he stepped off that  
6 plane was, "I don't know where I kept my hand," and that was  
7 before anyone told him anything about why Laura got up from the  
8 plane.

9 We know that throughout the course of the day his  
10 story changed, it evolved, until he eventually admitted to the  
11 FBI that -- and demonstrated to them that he put his fingers  
12 into Laura's pants and tried to get them in her vagina. You  
13 heard and saw those clips.

14 Now, you're going to receive instructions from the  
15 judge about the elements of Sexual Abuse. Those are just the  
16 parts of the crime that we must prove beyond a reasonable doubt  
17 in order for you to find the defendant guilty. I'm going to go  
18 through each of these elements with you now and show you how  
19 each element has been proved beyond a reasonable doubt.

20 Starting with the first element, the first element is  
21 that the defendant knowingly engaged in a sexual act with  
22 Laura, and the judge is going to tell you that sexual act means  
23 penetration, however slight, of the anal or genital opening of  
24 another by a hand or finger or by any object with an intent to  
25 abuse, humiliate, harass, degrade, or arouse or gratify the

1 sexual desire of any person.

2           You have heard the testimony from Erin Ivaniszyn.  
3 She was the Sexual Assault Nurse Examiner, also known as a SANE  
4 nurse, who examined Laura that day. She testified that  
5 penetration means anything that goes past the labia majora,  
6 which is the outer layer of the vagina. She stated it's  
7 actually a common misconception that people think in order to  
8 have penetration, you need to actually be inside of the vagina  
9 or vaginal canal. She also stated that Laura complained of  
10 soreness when she was examining her.

11           So the defendant's fingers didn't even need to enter  
12 Laura's vagina for there to be a sexual act, but we know that  
13 it did. Laura described to you what she saw and what she  
14 heard -- sorry, what she felt. She felt the unmistakable  
15 feeling of the defendant shoving his fingers in and out of her  
16 vagina. She mentioned that feeling in the text message to her  
17 boyfriend. She also told us you know when something is inside  
18 of you.

19           We also heard from the defendant himself. He told  
20 the FBI agents that he tried to put his hands in her pants and  
21 he tried to get one or two fingers inside of her. And the  
22 defendant inferred to the FBI agents that he was aroused. He  
23 described how Laura had fallen asleep in his lap and claimed  
24 that her hands were grazing his crotch area. This shows that  
25 he had the intent of gratifying his own sexual desire by taking



1 advantage of Laura. But you can also use your own common sense  
2 in determining why or for what purpose the defendant would  
3 place his hands inside Laura's vagina. That unmistakable  
4 feeling of a stranger's fingers would certainly be humiliating  
5 and degrading.

6 All of this evidence supports that the defendant  
7 knowingly penetrated Laura with his fingers with the purpose of  
8 arousing or gratifying his sexual desire. We've proven this  
9 element beyond a reasonable doubt.

10 Now, the second element is that the defendant knew  
11 Laura was incapable of apprising the nature of the conduct or  
12 physically incapable of declining participation in or  
13 communicating unwillingness to engage in the sexual act. And,  
14 ladies and gentlemen, all this means is that Laura was unable  
15 to understand the nature of what was going on or physically  
16 incapable of saying yes or no to the sexual act, and she was  
17 not able to do that because she was asleep.

18 Let's talk about the evidence that supports this  
19 element. Nearly every witness on the plane stated that Laura  
20 was asleep. The defendant himself says it several times. In  
21 fact, he says it every time he talks to law enforcement. He  
22 tells the airport officers that "she was sleeping on my legs  
23 but I don't know where I placed my hand." He tells the FBI  
24 that five to ten minutes after she boarded she went into a deep  
25 sleep. He also demonstrates in that video to the FBI that she

1 was sleeping on his shoulder. He even leans forward on the  
2 table to show that she was sleeping on his leg. But the  
3 defendant doesn't just say she was sleeping; he says many times  
4 he believed that she was intoxicated. Based on those  
5 statements and the fact that he said she was sleeping, the  
6 defendant knew that Laura was unable to understand what was  
7 going on when he put his fingers inside her vagina.

8 The defendant's wife also testified that Laura had  
9 headphones in and she was sleeping on her husband's shoulders  
10 at one point. She also claims that this is a common thing in  
11 India, that people just fall asleep on other people during  
12 their commute because it's crowded.

13 Mr. Burciaga, the male flight attendant from Spirit  
14 Airlines who testified last week, said Laura was sleeping on  
15 the plane.

16 Laura's own statements also support that she was  
17 physically unable to understand what was going on or tell the  
18 defendant that she didn't want to participate. She said she'd  
19 had enough alcohol that day to induce a hard sleep. She even  
20 timed her Adderalls to ensure that she'd be able to sleep  
21 deeply on the flight.

22 Ladies and gentlemen, Laura was physically incapable  
23 of speaking or communicating to the defendant that she did not  
24 want him to put his hands inside of her vagina. The  
25 penetration had already occurred by the time she woke up and it

1 was too late. We've proven this element beyond a reasonable  
2 doubt.

3 Now, the third element and the final element is that  
4 the offense was committed within the special aircraft  
5 jurisdiction of the United States. And there's no dispute here  
6 that this offense took place on Spirit Airlines Flight 788  
7 which originated from an airport in the United States, that was  
8 Las Vegas, and landed in an airport in the United States, which  
9 is -- was in Detroit, and all of the testimony from the  
10 witnesses support that this assault occurred while the flight  
11 was in air. We have proven the last and final element beyond a  
12 reasonable doubt.

13 Now, the judge is also going to give you some  
14 instructions about attempt. He will tell you that the  
15 indictment in this case includes both the crime of sexual  
16 assault and the crime of attempted sexual assault. You can  
17 find that the defendant committed the crime either way in order  
18 to find him guilty, and all of you do not need to agree on  
19 which way the defendant committed the crime. If some of you  
20 think that he committed the crime of Sexual Abuse and some of  
21 you think that he attempted the crime of Sexual Abuse, that is  
22 enough to convict him of this charge.

23 Now, there's ample evidence to support that he did  
24 commit the crime of Sexual Abuse, but we have also proven to  
25 you beyond a reasonable doubt that he attempted to commit the

1 crime of Sexual Abuse.

2 For you to find that the defendant was guilty of  
3 attempting to commit Sexual Abuse, you must first find that the  
4 defendant intended to commit the crime of Sexual Abuse, and  
5 second, that the defendant did some overt act that was a  
6 substantial step in -- towards committing the crime. He  
7 doesn't have to complete all the steps but just one overt act  
8 that would be considered a substantial step.

9 So let's go over the -- just the overt acts that he  
10 admitted to. The defendant admitted to unzipping Laura's  
11 pants. The defendant admitting -- admitted to trying to unhook  
12 her bra, and we know that her bra was, in fact, unhooked. Most  
13 people understand that unhooking a bra is not always an easy  
14 task, it's not something that happens accidentally, especially  
15 with one hand. It shows that the defendant was preparing her  
16 for the penetration that occurred later.

17 The defendant also admitted to trying to get his  
18 fingers inside of her. When asked specifically by Special  
19 Agent Dodge if he was trying to get his fingers inside, the  
20 defendant said, "I was trying, I won't say I did not try."

21 All of this probably took some time. Laura was sound  
22 asleep under that blanket with music in her ears. It was dark  
23 on the flight and many people sleep on red-eye flights. The  
24 defendant had plenty of opportunity to put his hand underneath  
25 the blanket and even had his own jacket covering his body as we

1 heard from his wife. He had time while his wife was sleeping  
2 to slowly work on undoing Laura's clothing and gaining access  
3 to the most private part of her body. These actions show  
4 deliberate acts on the part of the defendant.

5 Now, the judge will also instruct you that you can't  
6 rely solely on the defendant's uncorroborated statements, but  
7 all of these overt acts that the defendant admitted to are  
8 corroborated by all of the other evidence in this case,  
9 including Laura's testimony. Any one of these acts is enough  
10 to find beyond a reasonable doubt that the defendant attempted  
11 the crime of Sexual Abuse.

12 Now, I want to talk for a moment about the  
13 credibility of witnesses. A lot of the evidence of this case  
14 comes from the witnesses who testified here in court, and the  
15 judge will instruct you that it's up to you to determine which  
16 witnesses are credible and which witnesses are not.

17 So let's start with Laura's credibility. There are  
18 two important factors to think about as you discuss and  
19 evaluate her credibility: corroboration and consistency. And  
20 I've already talked about all the ways in which Laura's  
21 statements are corroborated or supported by the other evidence  
22 in the case. That includes her text messages, everything the  
23 other witnesses have said, their descriptions of her demeanor,  
24 those adjectives that I read at the beginning of this closing,  
25 closing. They also include the statements of the defendant.

1 But it's also important to think about how consistent  
2 Laura's statements have been since she came off the plane and  
3 even before she came off the plane. There were several  
4 witnesses who testified about statements that Laura made to  
5 them. First was Ali Hathaway, the first flight attendant from  
6 Spirit Airlines; second was Oscar Burciaga, the second flight  
7 attend from Spirit Airlines; and third was Erin Ivaniszyn the  
8 SANE nurse examiner. And we also heard from Laura. Laura told  
9 the same set of facts to all the people that you have heard  
10 from. She's told the same set of facts to us on Monday.  
11 Laura's account has never wavered. Corroboration and  
12 consistency.

13 In contrast, the defendant's statements from the  
14 moment he walked off the plane were constantly evolving. He  
15 first made a statement to Sergeant Alvarado immediately after  
16 walking off the plane. Now, let's look at that clip again.  
17 This is Government's Exhibit 7.

18 (Video with audio being played)

19 Now, ladies and gentlemen, I know that was difficult  
20 to hear, but you will have an opportunity to review the  
21 exhibits as you deliberate and you can listen and watch that  
22 clip again. As you can see from the video, all Sergeant  
23 Alvarado said when he first met the defendant was, "What's  
24 going on today?" He didn't say anything about Laura or ask  
25 her -- him any questions about what happened on the airplane.

1 The defendant immediately begins talking about Laura: "She was  
2 trying to come out. She was sleeping on me."

3 He then starts talking about his hands, specifically  
4 the right hand. He says, "I don't know where I kept the hand."  
5 He repeats it later in the clip, "I'm not sure where I kept my  
6 hands."

7 And, ladies and gentlemen, did you notice in this  
8 clip that he also says it was his neighbor, his neighbor told  
9 him that the victim was sleeping on him, not his wife but he  
10 says the word "neighbor."

11 At this point the defendant knew nothing about the  
12 investigation, no one told him anything about it. All we know  
13 is that he had at least 45 minutes to talk with his wife before  
14 he got off the plane and think about his story. His wife  
15 confirmed in her testimony that they discussed Laura after  
16 Laura got up before the plane landed.

17 The defendant then talks to Officer Chalmers and  
18 Officer Wach at the gate. He tells them how he took a tablet  
19 because he wasn't feeling well and that he fell into a deep  
20 sleep, and that tablet ended up just being regular Tylenol.  
21 And for someone who claims to be in such a deep sleep, he sure  
22 does remember a lot of details about what Laura was doing on  
23 the plane. As you can see in this screen shot from Exhibit 9,  
24 the defendant continues gesturing with his right hand when he  
25 talks about knowing -- not knowing where they were on the

1 flight.

2           Next the defendant writes out a written statement  
3 where he repeats "I'm not sure where I kept the hand on her."  
4 Think about that, ladies and gentlemen. If nothing happened,  
5 if all he knows is that Laura, the person sitting next to him  
6 on the plane, got up and didn't come back, he would have had no  
7 idea why it is that she got up. She could have had a medical  
8 emergency. She could have just wanted to switch seats for  
9 whatever reason. All he knew, if nothing happened, was that  
10 the person sitting next to him on the plane got up and later a  
11 different person sat in that seat. But his first reaction was  
12 to discuss his hands. That, ladies and gentlemen, is evidence  
13 of a guilty conscience.

14           Now, yesterday you heard and saw from Agent Erkinen  
15 about the interview he did with the FBI in this case and you  
16 watched clips from that interview. You saw that the defendant  
17 initially deflected attention away from him. He asked the  
18 agents if they would arrest Laura too if he complained that she  
19 was sleeping on his leg. He starts talking about how Laura was  
20 doing all kinds of things: moving her legs in and out,  
21 chatting, getting up to eat chips, talking on the phone. But  
22 the defendant can't keep up with his stories because later in  
23 the interview he tells the agents after five or ten minutes  
24 after she sat down, she fell into a deep sleep. That's just  
25 one of the ways that the defendant's story evolves throughout



1 the course of the interview.

2 The defendant is constantly adjusting his story to  
3 try to fit with the information he thinks the FBI knows, and he  
4 tries to gather information as it goes. You heard him asking,  
5 "Can I know what the complaint is first before I talk about  
6 it?" He asks several times throughout the day, "What has she  
7 said about me? I don't know what she's complained about me."  
8 He asks four separate times -- sorry -- whether or not there  
9 were cameras on the plane. He's trying to figure out what they  
10 know so that he can adjust his story to explain the facts.

11 In Exhibit 20, that's the last clip that we saw, you  
12 can see the moment when the defendant learns that the FBI  
13 agents know that Laura's bra was unhooked. When he's answering  
14 questions about that, he takes a pause, he says, "Um, um, um."  
15 You can see the wheels spinning in his head, and you can see  
16 even in a span of minutes as the agents are asking him about  
17 how her bra got unhooked, how her pants got unzipped, how his  
18 statements evolved even in that short span of a few minutes.  
19 First he says, "Intentionally I did not do that." Then "This  
20 one," and he's gesturing toward the bra area, "I remember  
21 was up, I was trying. I won't say I did not try." Later as  
22 they're talking about trying to undress her and put his hands  
23 in her pants, he looks down and says, "I tried, I tried."  
24 These are just some examples of the way the defendant's story  
25 changed throughout the day.

1           Now, the defendant's trying to say, or he's tried to  
2 say through his counsel, that he didn't understand what the  
3 agents were saying, that they somehow coerced him into making  
4 all of these admissions. But you saw the video, ladies and  
5 gentlemen. You saw the agents asking him if they understood  
6 what he was saying. He shook his head and said, "No  
7 troubling." So maybe his verb tense was a little bit off but  
8 his message was the same.

9           You saw the agents explain to him that he didn't have  
10 to talk to them, he didn't have to answer any of the questions.  
11 When they went over that line of the Miranda Rights, the  
12 defendant said, "Okay, that means I don't have to answer all of  
13 the questions?," and Special Agent Dodge said, "No, that means  
14 you don't have to answer any of the questions." The agents  
15 spent over ten minutes going over the Miranda Rights, making  
16 sure the defendant understood that he didn't need to talk to  
17 them, and that if he wanted to, he could have had a lawyer with  
18 him in the interview. The defendant chose to proceed with the  
19 interview. He didn't tell them "I'm too tired to talk or I'm  
20 hungry and I don't want to talk right now." He immediately  
21 lunged into his explanation that, as you've seen, made no  
22 sense.

23           And the best indication that he understood English  
24 during the interview is his answers to the questions that he  
25 asked. And unprompted, he gave hand gestures that happened to

1 coincide with everything he was saying. He did that on his own  
2 and he understand -- understood what he was doing. Now, was  
3 there a language barrier? To some extent, yes. But you saw  
4 the back and forth happening between the agents to make sure  
5 that they understood what the defendant was saying and that he  
6 understood them. And it doesn't matter what language you're  
7 speaking. When you're using your hands to gesture exactly what  
8 you're doing to the victim's body, everyone understands what  
9 you're saying. Sexual assault has no language barrier.

10 Ladies and gentlemen, we've also heard from a DNA  
11 examiner in this case. She told us she was not able to  
12 identify a match between the victim's swabs and the defendant's  
13 swabs, and we've heard that there's a variety of reasons for  
14 why that might be. She said it was possible that there was no  
15 transfer at all. That could be due to skin composition, air  
16 environment, things like lotion on the hands. She also said  
17 that not every touch results in a DNA transfer.

18 And as you also saw, the defendant had plenty of time  
19 to rub his hands which can also affect the DNA. In  
20 Exhibit 21 -- excuse me -- we showed you all of the ways that  
21 the defendant was touching his body, had his hands in his  
22 pockets and touching other objects. He also blew his nose on a  
23 napkin, and that napkin was in his pocket when he arrived at  
24 the station, which means it was on him when he was on the  
25 airplane before he got off the plane.

1           And you heard from the officers that the defendant  
2           was not swabbed right after he walked off the plane. Was this  
3           a perfect investigation? No. But the judge is not going to  
4           ask you to decide whether the Metro Airport Police should have  
5           been more proactive in securing the hand swabs. You'll only be  
6           asked to evaluate the evidence in front of you. And remember  
7           what the judge told you during jury selection: DNA evidence is  
8           not required to find the defendant guilty beyond a reasonable  
9           doubt. The DNA evidence doesn't change the fact that the  
10          defendant admitted to doing these things. Think about the  
11          evidence in the case and how it all fits together.

12           I want to take a moment now to talk about the two  
13          witnesses that the defense put on. We heard from them  
14          yesterday and this morning. The first was Mr. Selleke. He had  
15          nothing relevant to say about the case. Instead, he focused on  
16          what Laura was wearing that day, what Laura was drinking that  
17          day.

18           The second witness was the defendant's wife. She  
19          made statements that just don't fit with the other evidence in  
20          this case. Her testimony is not only inconsistent with prior  
21          things that she said, but it's inconsistent with what her  
22          husband has said. For example, she said that Laura got up and  
23          went past them, but she said that the defendant didn't wake up  
24          when that happened, that he stayed asleep. But the defendant  
25          himself told us he remembers Laura getting up and down. He

1 even says in the interview something like "she tapped me and I  
2 laughed with her." This doesn't support his wife's testimony  
3 that he was sleeping the entire time. But it's not surprising  
4 that the defendant's wife would say she didn't see anything  
5 happening. She has every incentive to protect her husband.

6 Ladies and gentlemen, the judge has instructed you  
7 that you can consider a witness's -- or the judge will instruct  
8 you that you can consider a witness's bias in determining  
9 whether to believe their testimony. One of the ways you can do  
10 this is think about what a person may have to gain or lose from  
11 the outcome of the case. I suggest that you ask yourselves  
12 what does Laura have to gain in making something like this up?  
13 She didn't know the defendant before this happened. What  
14 possible reason could she have to make this up?

15 Think about all that she was subjected to during --  
16 during the course of this investigation. She had to endure  
17 questioning from the police. She had to endure going to the  
18 hospital with a police escort just to be turned away because  
19 they couldn't do the rape kit there. She then had to go a  
20 second time to another hospital to have a rape kit performed on  
21 her, which is, as Dr. Ivaniszyn testified -- or not Dr. --  
22 Nurse Ivaniszyn testified, a very invasive vaginal exam. And  
23 then there was this trial. Months after her traumatic event  
24 she came to court, she sat before you and she described in  
25 detail how this man sexually violated her.

1           Laura is a 22-year-old girl. Maybe she could have  
2       made better choices that day, but ladies and gentlemen, you're  
3       not -- the Court is not going to be asking you to decide  
4       whether she should have spent her time in the airport in a  
5       better way. The Court is not going to ask you to decide what  
6       she should have been wearing that day. The Court is not going  
7       to ask you to decide whether she should have been wearing a  
8       winter jacket as Mr. Selleke suggested. That is because Laura  
9       is not the one on trial here. But ask yourselves, why would  
10      anyone go through all of this if they weren't sure?

11           As you go back to the jury room to deliberate, think  
12      about whether it even makes sense that this didn't happen. The  
13      defense has tried to say that Laura was so intoxicated that she  
14      just imagined this assault. And Laura admits she did have  
15      enough to drink before the flight that it induced a hard sleep,  
16      but the witnesses who talked about her demeanor after she woke  
17      up describe it as coherent. They didn't say that she seemed  
18      intoxicated after. The airport flight attendants and the  
19      officers could have coherent conversations and she could carry  
20      on the conversation. In her text messages you can see that  
21      she's clearly upset and rattled, but you can use your common  
22      sense in analyzing whether she's able to put together coherent  
23      enough sentences and words in a way that is not reflective of  
24      someone who's blackout drunk.

25           In order to believe the defendant's theory that she

1 somehow imagined or dreamed the assault, you would have to  
2 believe that Laura unbuttoned her own pants, untied her own  
3 shirt, unbuttoned the top of her own shirt, unbuttoned her own  
4 pants, unzipped her zipper, and that the defendant just  
5 happened to admit to doing all of these things afterward. But  
6 how coincidental is it that the defendant confessed to the  
7 exact same sexual act that the victim described?

8 Ladies and gentlemen, were you watching in the  
9 interview the hand gestures the defendant made when he spoke  
10 with the FBI? Did you notice that he twisted his arm like this  
11 when he showed them how he was touching Laura? Did that  
12 gesture seem familiar to you? If it did, that's because that  
13 is the exact same gesture that Laura made when she was on the  
14 stand on Monday and defense counsel was asking her how it is  
15 that she saw the defendant's hand touching her vagina. Laura,  
16 who testified that she's never seen any of the other reports in  
17 this case, she testified that she only looked at what she's  
18 written in the case, made the exact same twist of the arm that  
19 the defendant made in his interview with the FBI only a few  
20 hours after the assault.

21 The fact that there's no DNA in this case, there are  
22 reasonable explanations for that. The fact that the defendant  
23 and the victim made the exact same hand gestures months later,  
24 the only explanation for that is that this is how the defendant  
25 got his hands into her vagina on that airplane.

1           Ladies and gentlemen, this is a simple case. The  
2           defendant took advantage of a 22-year-old girl alone, sleeping  
3           and trapped in the window seat where she couldn't get up to  
4           escape. He saw Laura and decided to act on his urges while she  
5           was helpless to resist. All of the evidence in this case  
6           brings you to the only conclusion that makes sense: the  
7           defendant is guilty. Thank you.

8           THE COURT: Thank you, Ms. Jawad.

9           Mr. Amberg, are you ready to proceed?

10          MR. AMBERG: I'm ready, Your Honor. Just want to  
11          shut this off here.

12          THE COURT: You may proceed.

13          MR. AMBERG: It's distracting.

14          Prabhu's day started at 4:30 that morning. He woke  
15          up because for the last couple of days before that in Las Vegas  
16          he couldn't do anything. He was sick, he had a fever, he  
17          didn't feel well, he had one of those colds that we've all  
18          probably had. All you want to do is just sit there and rest  
19          and try to get better. But he was on vacation with his wife  
20          and he promised her that they would go to the Grand Canyon that  
21          day, and so he sucked it up and he got into their rental car  
22          and drove for four hours while he was exhausted to the Grand  
23          Canyon. Once he was there, he spent the entire day with his  
24          wife walking around and doing things actively, things that when  
25          you're sick you just don't want to do, because when you're



1 sick, all you want to do is rest.

2 Now, a four-hour drive is exhausting enough. We've  
3 all done it. You drive up north, that's not an easy drive.  
4 Then you do something all day and then he drives back to the  
5 airport, another four hours. So that's eight hours of driving  
6 while already exhausted, not feeling well and everything else.

7 Eating? Not much because when you're sick, you don't  
8 eat much. And with Prabhu and his wife, as we know, their food  
9 that they eat, it's very limited. So when he gets to the  
10 airport with his wife, all he can eat is a couple of french  
11 fries and a cup of hot chocolate. He doesn't sleep there.  
12 They get on the plane and that's that.

13 Now, it's clear that his intention is that he wants  
14 to sleep on the plane. Him and his wife get there first to  
15 their seats. Nobody else is sitting there. They sit down,  
16 just like many -- probably all of us have in the past on these  
17 Spirit Airlines flights, and they are ready to go. They're  
18 speaking to each other in their own language, and then all of a  
19 sudden the complainant shows up. She asks for a favor to put  
20 her stuff under Prabhu's seat. He complies. She's got a lot  
21 of stuff, so she then goes back to the front of the plane and  
22 finds a place to put her bag. Everything's normal. These are  
23 experiences we've all had.

24 Now, at this point in time, this is very late in the  
25 evening, this is a red-eye flight, and Prabhu has now been up

1 for the greater part of almost 24 hours at that point. And  
2 like I said, when you are sick, all you want to do is sleep.  
3 His wife gives him some Tylenol. That's exactly what he does,  
4 he falls asleep.

5 Now, the complainant's sitting next to him, she's  
6 sleeping as well. And as we heard, and I'll get into in  
7 greater detail in a minute here, but she's got a lot of alcohol  
8 on board with her. She had her own things that she was doing  
9 while she was in Las -- or in San Diego and then Las Vegas, and  
10 she is sleeping as well.

11 First she falls asleep on the window, but as we heard  
12 from different witnesses, she then falls asleep on Prabhu's  
13 shoulder and then on his lap. Prabhu's out cold, and that  
14 makes sense because who, any of you, do you think you'd be up  
15 and awake after the day he had? No, there is no way.

16 So what happens is this. The complainant, who you  
17 heard how adamant she was about how she never would sleep on  
18 him, never, she wakes up and there she is sleeping on him.  
19 Now, when you're drunk, when you're in that haze, when you  
20 don't know what's going on and you're dreaming, you think  
21 something happened, that's exactly what happens here.

22 So she gets up, she doesn't scream or anything like  
23 that. She gets on her cell phone and for ten minutes texts,  
24 and the texts are all over the place. Sometimes the texts  
25 are -- and you'll see 'em, they're in evidence -- sometimes the

1 texts are about "was I -- I don't know what was happening, this  
2 is what I was thinking" and things like that. Then she leaves.

3 Now, Prabhu and his wife don't really know anything  
4 yet about those accusations. What happens is is that she never  
5 comes back to the seat and another gentleman is now sitting in  
6 the seat. They moved over.

7 Plane lands and then it becomes unusual because they  
8 see her, the complainant in this case, taken off the plane  
9 first. Then the next unusual thing is that Prabhu is taken off  
10 the plane. Now, as we know, Prabhu's wife had told him that  
11 she, the complainant, was sleeping on him.

12 Almost immediately, as you can see, the officers  
13 are -- are surrounding him, and as he's escorted out of this  
14 terminal he can see the complainant sitting there talking to  
15 other officers. The one officer asks him real quick, "Did you  
16 intentionally touch her?" I think anybody could put two and  
17 two together to know what's going on. You got this guy who's  
18 not from this country, who doesn't speak English as his first  
19 language, he doesn't speak English that well, it's gotta be  
20 just a nightmare.

21 And what do you say? It's so easy to come in here  
22 today like the government and play Monday morning quarterback  
23 and what you should do and how you should act. Imagine if that  
24 was you. Imagine if you were in India. Imagine if officers  
25 that don't really understand you and your language are now

1 questioning you, and all you do is say that you didn't do  
2 anything, and you don't even know what you're accused of except  
3 you know she's over there and you know she was laying on you.  
4 That's what's going on here, that's all that there is. And the  
5 thing is is that the evidence certainly backs that up.

6 Now, before I get into the evidence itself, it's so  
7 easy to make an accusation. Once you make an accusation on  
8 somebody, that's it, these officers automatically think you did  
9 it. And that was the case here. They never gave him the real  
10 chance. They never waited till the evidence came back. They  
11 never did anything. They thought he was guilty just by the  
12 accusation. Put yourself in those shoes.

13 And I'm kind of jumping ahead but think about that  
14 interview. They already knew they were taking him to court.  
15 You take somebody you didn't think do it or maybe give him that  
16 fair shake that he deserved? You think you -- you're taking  
17 him to court right away 'cuz of that? No, you do it because  
18 you heard what she said and you just believed her, that's it.

19 So let's talk about the evidence because it's one  
20 thing to accuse somebody and have some statements done after  
21 somebody's been up for a day and a half straight sick as a dog,  
22 no food, no drinks or anything like that, yeah, that's real  
23 easy to manipulate somebody into saying something, and I'll get  
24 to that in a second. But at the end of the day, the one thing  
25 that Prabhu has to -- to rely on is that the evidence does not

1 suggest that this happened at all.

2 So let's start off with the DNA, the evidence. We  
3 know that the hand in question here is the right hand. All  
4 right. And I don't -- I apologize I have to be graphic on  
5 this, but I have to because it's -- because I have to show you  
6 how obvious this is. If you put your hand into a vagina, you  
7 will have DNA all over that hand. All right. There will be  
8 DNA all over the hand.

9 You heard the flight attendants say as soon as this  
10 accusation happens, that they, either Burciaga or the female  
11 attendant, watched him the entire time while he was in the air.  
12 Then when they land, these officers have watched him ever  
13 since. And there's even cameras. You didn't get to see it  
14 all, but I asked Agent Erkkinen about it. There's cameras that  
15 watched him literally the entire time. He never washed his  
16 hands. This idea that you can somehow go like that and  
17 magically all that DNA comes off is preposterous, it is  
18 preposterous. I get it, the government's witness, their  
19 expert, will come up there and say what they gotta say to make  
20 it seem like that's a possibility, but it's preposterous, okay?

21 But it's not just that. Okay. And -- and I can tell  
22 you right now how we know that's wrong right off -- right off  
23 the bat. It's not just that it's just Prabhu's DNA on his  
24 hand; there's somebody else's DNA on his hand. So -- so I  
25 guess what happened, did -- did Prabhu go in there with a

1 microscope and kind of wipe around, you know, where her DNA  
2 was? That makes no sense at all, at all. You heard they did  
3 all the protocols the way they were supposed to do. DNA exists  
4 for weeks as long as you don't wash the hand with stuff or  
5 whatever, and they didn't, so there should have -- it should  
6 have been there and it wasn't.

7           So, yeah, it's easy to make an accusation, and when  
8 the evidence doesn't suggest it, you gotta look at that  
9 accusation with a grain of salt.

10           Now, it doesn't end there because if it was just one  
11 swab, I suppose, well, I guess it's a possibility magically  
12 this DNA left his hand, but it's not. We have testing on the  
13 fingertips, on the hand itself. You have testing on her, and  
14 not just around her breast area but, again, in her vagina,  
15 okay? The way she described this was that his hands go  
16 vigorously in and out of her vagina. Now, it was unclear from  
17 her how long that was, which is another problem with her story.  
18 But I'm telling you right now, folks, if this actually happened  
19 like that, there would be DNA inside of her.

20           They talk about this shower thing and all that stuff.  
21 What -- if you're doing an investigation like this, you make  
22 sure that person is ready to go, you make sure to preserve that  
23 evidence, and you do that if you actually are concerned about  
24 him. You don't do that if you already got your mind made up,  
25 you got the court date set, let's get that fake confession and

1 get outta here, okay?

2 Anything that they screwed up on, the government,  
3 their officers, you must hold it against them because I'm  
4 telling you, I wish that they would have done the real proper  
5 procedure and made sure that she didn't do anything and do that  
6 test because you know what? I could have come up here and said  
7 exactly what's the truth, which is that there is no DNA of his  
8 in her, all right? To believe her you have to disbelieve real  
9 evidence.

10 Now, it's not just that because it sounds like after,  
11 you know, the DNA evidence doesn't work out for him and, hey,  
12 maybe this guy's not guilty after all, oh, well, we better go  
13 do the fiber evidence, right? So this is another key piece of  
14 evidence. You can literally touch this and have fibers on your  
15 hands, okay? That's how it works.

16 Now, they cut Prabhu's nails, and guess what?  
17 There's fibers on those nails, multiple, different kinds of  
18 fibers. You can look at that report. Not only does that show  
19 that he wasn't washing his hands or, you know, cranking his  
20 nails like that, it shows that there was material that was  
21 collected from fibers. None from those jeans. You want to  
22 believe he was trying to get in those jeans and you're telling  
23 me that he didn't get fibers on his fingers? Gimme a break,  
24 gimme a break.

25 Can you imagine if it was the other way around? The

1 government would be up here telling you that this is the  
2 ultimate science, this is it. How could -- how could he be  
3 innocent, it's -- it's fibers on there. But there's not, so  
4 they just gloss over it because they hope -- and then this is  
5 what they have done in their closing argument -- they hope that  
6 you think she's a girl and that she's innocent and all this  
7 other stuff and how horrible this was that she had to go  
8 through this. But that's not facts, that's not evidence. No  
9 fibers is evidence. No DNA is evidence. They even did a  
10 fingerprint test. Guess what? Negative, okay? So there's no  
11 actual, real, physical evidence, the best kind of evidence.

12 Let's talk about the complainant and her drinking  
13 because it's very important for this case. I want to talk  
14 about how much she drank. Now, to different people at  
15 different times she sort of says different things about what  
16 she drank. I mean at one point with the SANE nurse she  
17 tells --

18 THE COURT REPORTER: Mr. Amberg, you need to slow  
19 down please.

20 MR. AMBERG: Okay, I will. I apologize.

21 At one point with the SANE nurse she clearly says she  
22 denies drinking at all, which is a lie.

23 MS. JAWAD: Objection. That's not what the evidence  
24 shows.

25 MR. AMBERG: It says, "Patient denies." I don't know



1 what else it could mean.

2 THE COURT: Counsel, all right. Just be conscious of  
3 the need to summarize the evidence accurately. Go ahead.

4 MR. AMBERG: And as you heard, folks, that's exactly  
5 what was written down there on that report: "Patient denies."  
6 Okay.

7 Now, so let's talk about the person who denied using  
8 alcohol. In San Diego she starts drinking, not when she gets  
9 there at the airport, but later on after her boyfriend's now  
10 gone, she's doing some work, she's working on something, I  
11 don't know, she says that she drinks four beers, okay? That's  
12 what she says, "I drank four beers and four shots." Okay.  
13 Eight drinks, right? But it's not eight drinks, it's not.  
14 It's pints. A pint of beer is bigger than a regular 12-ounce  
15 beer. A pint is 16 ounces. Okay. So right off the bat it's  
16 not four drinks, it's six drinks.

17 Now, a regular beer, a regular drink, Labatt, Miller  
18 Lite, stuff like that, it has a alcohol content, normal alcohol  
19 content, but that's not what she's drinking. She's drinking  
20 IPAs. And I even asked her about 'em. I asked what kind of  
21 IPAs she liked. Two Hearted Ale. This is not a wimpy drink.  
22 This is something with a much higher alcohol content in it, so  
23 six beers really become something like ten beers.

24 You add four shots. These aren't kamikaze shots,  
25 these aren't those cool shots you get when you're walking

1 around the bar and, you know, there's liqueur in there. This  
2 is Jameson whiskey, this is the real deal. She takes four  
3 shots of Jameson. She's got a lot on board by the time she  
4 leaves San Diego.

5 Now, I tried to ask her about her drinking habits  
6 because that's important. Now, she's young, she's 22, but  
7 she's not a daily drinker. She's also very petite, which is  
8 important for how alcohol, you know, we can -- common  
9 knowledge, folks, it doesn't take that much. Think about your  
10 own experiences if you drink 16 drinks in about three hours of  
11 time, how would you feel?

12 But what happens is is that it doesn't end there  
13 because the flight from San Diego to Las Vegas is less than an  
14 hour, and as soon as she gets there, she continues the drinking  
15 again during her layover. You heard Tom Selleke, he told you  
16 he's got no skin in the game. He was just there with sounds  
17 like there was a former wife. I'm sure there was a story  
18 there. But at the end of the day he recognizes her, something  
19 calls his attention and he sees what she's drinking.

20 Now, what she testified to is she drank a beer, and I  
21 would preface that with we don't know if that was a regular  
22 beer or a pint of an IPA, which is really about two beers. And  
23 then she also said she was drinking shots or taking drinks from  
24 somebody and things like that. But what Mr. Selleke says that  
25 he sees is that he sees her drinking a large mixed drink. What

1 is in that we don't know because she doesn't remember doing it,  
2 okay? That's the problem with everything she says, she doesn't  
3 remember.

4 Mr. Selleke sees her and how she looks, the way that  
5 her outfit is. He described it as a Daisy Duke type outfit.  
6 We talk about unbuttoning and things like that. It sounds like  
7 that shirt was already unbuttoned. She was chatting it up with  
8 some guy at the bar. I mean who knows what's going on there?

9 So then they all get on the plane. But before I want  
10 to talk about what happens on the plane, I asked almost every  
11 witness that came up here that had some sort of interaction  
12 with people that are drinking about alcohol and what it can do.  
13 And I know this is common knowledge but I thought it was  
14 important to hear it from the government's own witnesses,  
15 including the complainant. Alcohol causes loss of memory, we  
16 all know that, they all admitted it. When people are drunk,  
17 they can lie, we all know that, we probably all seen it.

18 People that are drunk have a misperception of  
19 reality. If you've been drinking and you've had what looks to  
20 be at least 20 different drinks all added together, you could  
21 have a misperception of reality. They all admitted you could  
22 have an incorrect memory, you can have false memories, you can  
23 think things happened that didn't happen.

24 When you look at what she drank and you look at her  
25 accusation versus the hard facts, that's not hard to put two

1 and two together. She wakes up, she's drunk, she's in that  
2 haze and she has no idea what's going on. Maybe she felt  
3 Prabhu moving around because, as Mr. Selleke described this  
4 airplane, it's like you are literally right on top of each  
5 other, and it's not a big stretch to say, you know, people are  
6 moving and she wakes up and she sees some guy's hand on her,  
7 she could think something happened.

8 Now, her memory is a major issue in this case. And I  
9 know that the government got up here and talked about  
10 consistency, about how she's consistently remembered things. I  
11 mean look, once you make an accusation, it's pretty easy to  
12 remember the accusation you made, all right?

13 And let's talk about her real memory from real  
14 evidence, not stuff that came from somebody who is clearly out  
15 of their element. Remember how she was when I asked her about  
16 sleeping on Prabhu, remember that? She was adamant, she was  
17 adamant that that never happened. "Ah, I would never do that."  
18 Okay. "I would never sleep on his shoulder, I would never be  
19 in his lap," kind of like I was crazy for asking that.

20 But as we know because you were all attentively  
21 listening during Mr. Burciaga's testimony, Mr. Burciaga saw the  
22 complainant sleeping on Prabhu, on his shoulder.

23 MS. JAWAD: Objection. That's not what the testimony  
24 was.

25 THE COURT: All right. This is closing argument so

1 you may have some leeway. Ladies and gentlemen, you need to  
2 rely on your own recollection of what the evidence was in the  
3 case.

4 So go ahead.

5 MR. AMBERG: Thank you, Your Honor.

6 And that's what he said. You folks heard him. You  
7 remember what you remember. That's what he said. He said he  
8 saw her sleeping on his shoulder. He remembers her because he  
9 found her attractive and even had struck up a conversation with  
10 her before that happened. So he knew when he looked at her.  
11 He was looking for her. This wasn't just some random person.  
12 This is somebody who he had made a connection with.

13 Now, maybe what the government is talking about is  
14 the second time he walks by and he sees something in Prabhu's  
15 lap. Now, I agree that he can't get up there -- he didn't get  
16 up there and say, "I could positively identify it as Ms. -- you  
17 know, the complainant." But of course I asked him a bunch of  
18 questions, you folks remember that. I said, "Whad'ya think it  
19 was, a bag sitting in there in Prabhu's lap?" No. I mean you  
20 could put two and two together: she was sleeping in his lap.  
21 So how did she forget that? How does she not remember that?  
22 The person whose testimony you have to believe a hundred  
23 percent has a major problem with that remembering of a major  
24 event.

25 Now, the second issue is this, and I'll tell you, you

1 heard this. Mr. Burciaga gets up here and he says he -- he  
2 makes that connection with her, and the connection that he  
3 makes with her isn't sitting there in the seat; it's where  
4 she's in line in the bathroom. They have a five-minute  
5 conversation. I mean this isn't small talk. "Hi." That's one  
6 second. "Ma'am, are you okay, do you need anything?" That's  
7 three seconds. But when you have a guy who's attracted to this  
8 person, who is, you know, got nothing better to do, it's the  
9 midnight flight, she smells like alcohol and everything else,  
10 he's going to chat her up, and that's what he does. It's  
11 astounding that she does not remember that, it's astounding.  
12 She even admitted that she was intoxicated. Now, I asked her  
13 that. I think she denied it but the way she admitted it was  
14 this: she couldn't drive a car, okay?

15 Now, her actual story is confusing. I tried to ask  
16 her how it went down. "I don't know how long this happened."  
17 Okay. She says that somehow Prabhu must have unbuttoned her  
18 pants. How do you not wake up when that happens, how, how do  
19 you not wake up? Maybe it's because she just had her pants  
20 unbuttoned when she came back from the bathroom. Who knows?  
21 Maybe she did it herself because she wanted to get more  
22 comfortable on the flight. You heard Mr. Burciaga say people  
23 do all kinds of stuff to get comfy on that Spirit Airlines  
24 flight.

25 As far as the bra goes, who knows, who knows? That

1     could be the same thing. You heard Geetha, Prabhu's wife, say  
2     he doesn't know how to open up a bra. And he's left-handed,  
3     not right-handed, so he's doing this -- if this is what  
4     happened, he's doing this with his off hand.

5             The thing about the shirt being open and -- and stuff  
6     like that, that shirt was set up to do that when she walked on  
7     that plane. Okay. It wasn't all buttoned up, it was already  
8     like that. And you know what? Just think about it. You're  
9     moving around, you're sleeping, head's on his shoulder, now  
10    you're like this, guess what's moving around? I mean look at  
11    my suit moving around. But when the shirt is just tied in  
12    there like that with a knot, it's going to move around.

13            I mean that brings me to one point before I'll move  
14    on to the next topic, and that's how -- how you can see how  
15    suggestive answering happens. Think about all these people up  
16    here that testified and saw her. The government would throw  
17    those -- they -- they would ask the question, "Didn't she look  
18    disheveled?" "Oh, yes, she looked disheveled." You saw how  
19    easy it was to agree, for somebody to just automatically agree  
20    with what the government was asking them, okay, but we'll have  
21    more on that later.

22            Because I want to talk about independent evidence in  
23    the plane. These seats are extremely tight, I mean three  
24    people in a span like that. Mr. Selleke had such a terrible  
25    time that he switched to the special seats because it was so

1 uncomfortable. While this was supposedly going on, he could go  
2 like this and actually touch six people besides Prabhu and his  
3 wife.

4 Are you kidding me that nobody saw this or heard this  
5 happening? The plane is not completely dark. You have to be  
6 able to see enough to get around and for the flight attendants  
7 to see and aisle lights were on and things like that. How does  
8 nobody see that? I mean there must have been a person sitting  
9 in front of these people literally this far away from the scene  
10 of the crime but they don't see anything? I'll guarantee you  
11 if they did, they would have been brought in here, but they  
12 weren't. Point your finger to the -- to the left in this case,  
13 there's three more people literally. They don't see anything,  
14 nothing?

15 The flight attendants walk these aisles, and they  
16 don't just walk it once or twice; it's like every 20 minutes.  
17 Every time Mr. Burciaga walked by, he saw that Prabhu was  
18 sleeping. Okay. He wasn't awake, he was out cold. Are you  
19 telling me that he just happened to, after the day he had, woke  
20 up and then decided to do this real quick with nobody looking  
21 and his wife sitting there who is also up because by that point  
22 in time the turbulence had hit? It just didn't happen, okay,  
23 it just didn't happen.

24 Look at her behavior. And I get it, the SANE nurse  
25 comes in and, you know, that -- this is a government witness



1 that is, you know, one of these people that just believes  
2 whatever is said without actually looking at the facts, okay?  
3 You know, they just -- the -- the SANE nurse is somebody who  
4 hears an accusation and believes it. Okay. That's who she is,  
5 it's what she does. She's an advocate for the people that are  
6 supposedly assaulted.

7 And of course she's got an answer for why the  
8 complainant doesn't immediately freak out. "Oh, well,  
9 sometimes people get scared and they don't do anything." She  
10 could have jumped up; she didn't. She could have screamed; she  
11 didn't. She could have knocked him right in the face; she  
12 didn't. I guess if she was petrified, I guess maybe that  
13 happens, but why get the cell phone out? And the texts aren't  
14 necessarily "Oh, I'm scared." And that was ten minutes, and  
15 then after ten minutes then she goes and leaves, okay?

16 The reason why her behavior is what it is is because  
17 it didn't happen, okay? Once again, the alcohol haze, when you  
18 are in that haze, when you are in that blackout haze, this is  
19 the kind of stuff that happens.

20 Now, let's look at Prabhu and what happens to him,  
21 okay? He's taken off this plane, he's thrown right into  
22 interrogations right off the bat. These guys are trying to ask  
23 him what happened and the entire time he's telling them "I  
24 don't think I did anything," you know. I think you can tell  
25 from the way he talks he has a hard time saying things in

1 English the right way. All right.

2 But rather than ever do anything to actually help  
3 him -- because once that accusation's made, you're guilty,  
4 right? I mean legally no, but the reality is that's what's  
5 happening here. Never, never getting him a translator, never  
6 asking if he's all right. He just keeps trying to tell them  
7 over and over again that he didn't do anything wrong.

8 This stuff about how he should have known or he -- he  
9 knew it had something to do with his hands before, I'll tell  
10 you what, folks. Think about it, think about the situation.  
11 Like I said in the beginning of my closing, you see her taken  
12 off the flight and then you're taken off the flight and your  
13 wife tells you that she was sleeping on your lap, anybody could  
14 put two and two together about what's going on. I mean he's in  
15 this terminal and he's being interrogated. He can see her,  
16 she's being talked to by officers.

17 Sergeant Alvarado asks him, "Did you intentionally  
18 touch her?" Key words because those are words he uses later to  
19 say that this didn't happen. But as you can see throughout  
20 this, nobody listened because you don't listen to a guy you  
21 think did it.

22 Look at the treatment that he went through, okay? He  
23 doesn't get any respect, he doesn't get any benefit of the  
24 doubt. He's whisked away without even being told why to the  
25 police department. And even though they had a room in there

1 with a nice little cotton bed, do you know where he's put?  
2 He's put on this little concrete slab surrounded by concrete.  
3 Do you think that's done to make sure he's all right? That's  
4 done to rattle you. That's the kind of stuff you read in  
5 newspapers about.

6 And that's what they do, they watch him like a hawk.  
7 He doesn't do anything as far as the DNA goes, as we already  
8 know, but the thing is is he sits there and sits there and sits  
9 there. He can't sleep. By this point in time he's been up for  
10 30 hours. Try to get comfortable on a cement bench like that,  
11 no pillow on there, nothing.

12 This goes on until about 2:00 o'clock when Agent  
13 Erkkinen decides to start conducting this interview with Agent  
14 Dodge. At this point keep in mind of his state of mind,  
15 Prabhu's. He's still sick, and this isn't just something I'm  
16 saying. You saw him wiping his nose, you saw him coughing all  
17 throughout this with different people, it's on all those body  
18 cams, so he's sick, okay?

19 Imagine if you were up for 30 hours straight, you're  
20 sick, you're separated from your wife, you have no idea what's  
21 going on, you're sitting there in a foreign country where these  
22 people don't really understand you and you don't know what to  
23 do, that's his mentality. They don't give him any food. They  
24 don't -- they're not nice to him in any way as far as to make  
25 sure he's all right. Instead, he goes in that interview like

1 that. He's exhausted, he's sleep-deprived. This is a recipe  
2 for disaster as far as a fair and honest interview.

3 Now, Agent Erkkinen, he knows that my client doesn't  
4 speak English well. That's very obvious the second you talk to  
5 him. All right. And the thing is is rather than ask "Do you  
6 need a translator?," they just get on with that interview,  
7 okay? Imagine if you were in India and that happened. Do you  
8 think --

9 MS. JAWAD: Judge, this is improper argument.

10 MR. AMBERG: I'll -- I'll con -- I'll withdraw that,  
11 Your Honor.

12 It shouldn't be the person being interviewed's  
13 responsibility to say, "Hey, I need a translator." When you're  
14 in fear and you're scared and you're exhausted and you're sick  
15 and you're tired and you're hungry and you don't know what's  
16 going on, the detectives should do that, it's as simple as  
17 that, because we owe that kind of fairness to Prabhu, but he  
18 doesn't get that.

19 Instead, they just start this thing, they start  
20 throwing stuff at him, and, you know, when it's -- remember  
21 that one clip where they -- they said, "Prabhu, do you  
22 understand?," and then they stopped it so you couldn't see the  
23 rest of the clip but I read it. Look at how he responds to  
24 that: "I was troubling, I was" -- I mean just almost a  
25 nonsensical answer. I mean that was what was really happening.

1 You guys saw clips of the interview, but that's what was really  
2 happening during this thing.

3 They don't ask if he's tired. They don't ask how  
4 long he's been up for. They don't ask if he's well. They  
5 don't ask if he's sick. They don't ask if he needs food. They  
6 don't ask if he needs water. They don't even shake his hand.  
7 That's not giving somebody a fair shake, no pun intended.

8 Now, here's the thing. He is trying, even during  
9 this interview and throughout, he says multiple times, "I  
10 didn't intentionally touch her." Not only that, but he's  
11 asking for these cameras, and when he's asking for the cameras,  
12 it's "they will save me, they will help me." Why, if you did  
13 something wrong, would you be telling these people to do that,  
14 okay, because if there was cameras in there and you did  
15 something wrong, it'd be right on the camera. Why would you  
16 say that?

17 He's asking about his charges, what's going on, but  
18 here's the thing. This interview's gotta wrap up because they  
19 gotta get over to the court, all right? So the interview's  
20 going nowhere. He keeps on saying he didn't do it. He keeps  
21 on trying to explain what it might be like when he was  
22 sleeping. They don't care. So what do they do? They start to  
23 inject. Just like injecting the disheveled thing of the  
24 witnesses, now they're injecting their words into this. It  
25 wasn't Prabhu that brought up the bra. It was, "Prabhu, how

1 did you unhook the bra?" Okay.

2 Now, we know false confessions and things like that  
3 happen, the agent even admitted it. He doesn't know any  
4 protocols for how to prevent that, but this stuff does happen,  
5 and this is the perfect recipe for this kind of thing, okay,  
6 because all of this happens right at the end and this is all  
7 suggestive: the bra, the flirting, the attractiveness. Prabhu  
8 doesn't bring any of that stuff, they do, they do.

9 And even when he says, when he says, "I tried, I  
10 tried," the reason why I brought up that first time he says  
11 that in that interview is because it's important because when  
12 he says, "I tried," he's saying that he didn't do anything  
13 wrong. But then they -- they just look at what he's saying and  
14 never really ask him what he means by "I tried." They got what  
15 they wanted, okay? Who cares about evidence? "I got somebody  
16 who says this happened, I'm going to believe them. I got this  
17 guy in here who doesn't speak English very well, who's not from  
18 this country, who's been up forever, who's sick, how we didn't  
19 give him any food, I didn't show him any respect by shaking his  
20 hand, we let him sit there for like eight hours on that  
21 concrete bench. You know what? This guy's like putty in our  
22 hands."

23 That's why you'll got -- you'll get that instruction.  
24 Takes more than just somebody's statements to convict him, all  
25 right? You folks look at those instructions. They'll read

1 what reasonable doubt is, and I think it's very important. And  
2 I know you folks are going to get these instructions and I  
3 would ask that you go through them and you apply them. Proof  
4 beyond a reasonable doubt means proof which is so convincing  
5 that you would not hesitate to rely and act on it in making the  
6 most important decisions in your own lives. That's what this  
7 is.

8 Now, he didn't do this, okay? But what really  
9 happened makes more sense than what the complainant said. She  
10 was drunk, she didn't know what was going on, she thinks she  
11 might have felt something. There's no DNA, there's no fibers,  
12 there's no nothing, nobody sees anything. It just doesn't make  
13 any sense.

14 Now, the last thing I'll talk about is this. The  
15 government has come in and said, well, you know, this is what  
16 happened, but if you don't think so, you can charge him with --  
17 you can convict him of attempt anyways. Don't fall for the  
18 bait, okay? They told you what they thought happened, all  
19 right?

20 But even if you're looking at this attempt and  
21 thinking about it, I would ask that you look at those elements  
22 of what a sexual act is. What's the evidence that -- even if  
23 you believe everything that Prabhu said in that video, what's  
24 the evidence of what he was going to do if he got the pants  
25 open? There's none, okay? So what was he attempting to do?

1 You have to attempt to penetrate the vagina. Where's that?

2 But like I said, that's just the bait, okay?

3 I thank you for being here, folks. This is not an  
4 easy trial, all right, but I know you'll give him that fair  
5 shake. I know that you'll do what's right because he deserves  
6 that. So thank you very much for your time in this case and  
7 thank you very much, Your Honor.

8 THE COURT: Thank you, Mr. Amberg.

9 All right. You may present any rebuttal at this  
10 time.

11 MS. JAWAD: Thank you, Your Honor.

12 THE COURT: Keep in mind you have less time.

13 MS. JAWAD: Yes, Your Honor.

14 Ladies and gentlemen, you have pictures and videos  
15 from this case. You can decide for yourself whether the victim  
16 looked disheveled that day. You can decide for yourself  
17 whether the agents and the officers treated the defendant  
18 fairly that day or whether they mistreated him as the defendant  
19 claims.

20 I want to first address defense counsel's statement  
21 that once the accusation is made, he's guilty. You heard from  
22 Sergeant Alvarado. He explained to you that when he arrived at  
23 the gate before anyone was taken off the airplane, he wanted to  
24 find out the truth. He said it is sometimes the case that  
25 things are reported from the tower that don't end up being



1 true. That's why he was asking the defendant, "What's going  
2 on?" The decision to arrest the defendant was not made until  
3 after the officers talked to the defendant and gathered all of  
4 the information. The decision wasn't made until after they saw  
5 the defendant gesturing with his hands and saying, "I don't  
6 know where my hands were."

7 And you also heard from Officer Chalmers who said,  
8 "We didn't slap handcuffs on him right at the gate. We asked  
9 him to come with us to the car, and we didn't put cuffs on him  
10 so that he wouldn't fall on the icy railway."

11 They didn't subject him to harassment or  
12 embarrassment in front of the people at the gate or in front of  
13 his wife.

14 And you heard from Special Agent Erkkinen about what  
15 happened during the interview, and you saw yourselves the  
16 demeanor and the way that the agents were speaking with the  
17 defendant. Special Agent Erkkinen said, "I wanted to make sure  
18 that he understood what I was saying and that I understood what  
19 he was saying," and you heard all of the clarifying questions  
20 that were asked. This was not an interrogation as the defense  
21 claims.

22 And I want you to ask yourselves, ladies and  
23 gentlemen, how much time did Mr. Amberg spend on distractions,  
24 on things that don't matter? How much time did he spend  
25 talking about DNA evidence? Mr. Amberg stated that if you put

1 your finger into a vagina, you will have DNA evidence all over  
2 your hand. There was no evidence that that is the case  
3 presented in this trial. In fact, that's not what the DNA  
4 scientist said when she testified. She said it's possible that  
5 there may be DNA and that it would even perhaps be likely if  
6 you put your finger into a vagina that there would be evidence,  
7 DNA on your hand.

8 The only person throughout this entire trial to say  
9 that you would have DNA covering you all over your hand is the  
10 defense attorney. He even told you in opening you're going to  
11 hear from an expert that's going to say that. He did not  
12 present an expert who said that, and that is not what the  
13 government's DNA scientist said.

14 That's not the only thing that Mr. Amberg said that's  
15 not supported by the evidence. He started by saying she had  
16 alcohol on board while she was on the airplane. You heard from  
17 Laura. There's no evidence that she had alcohol on the  
18 airplane. You heard from the flight attendants. All of them  
19 stated they didn't serve Laura any alcohol on the plane.

20 You also heard Mr. Amberg say that Oscar Burciaga  
21 said he saw Laura sleeping on the defendant's lap, but what Mr.  
22 Burciaga said was that he saw a black figure on the defendant's  
23 lap. He wasn't sure if it was Laura sleeping on his lap or  
24 not. You heard from the defendant's wife who said that he had  
25 a black jacket on and you saw his black jacket in the video.

1 Mr. Burciaga never said that the defendant -- or that the  
2 victim was sleeping on the defendant.

3 Does it matter that Laura doesn't remember going to  
4 the bathroom on the flight or doesn't remember sleeping on the  
5 defendant's shoulder, if it's true that she even did that? You  
6 heard from Laura, she says she flies often for work. Her job  
7 requires that she flies all the time. She's probably been on  
8 several flights since January and probably took several flights  
9 before that. She not -- may not remember on which flights she  
10 went to the bathroom. She may have had too much to drink that  
11 she just doesn't remember that incident. Whatever the reason,  
12 we remember significant events in our lives. Going to the  
13 bathroom is not always one of them. What Laura does remember  
14 and what she's been unequivocal about is that she woke up to  
15 the defendant's hand in her vagina.

16 Now, I'd like to talk about hands for a little bit  
17 here. The defendant mentions his hands throughout the entire  
18 day, didn't know where his hands were. And, ladies and  
19 gentlemen, we've all been in situations where we've been in  
20 enclosed spaces or tight quarters. The defendant has -- or the  
21 defense attorney has talked about tight spaces throughout this  
22 trial. In the jury box now you maybe feel somewhat restricted.  
23 When you're walking back and forth into the jury room and into  
24 the jury box, you may be aware of where you are in relation to  
25 other people so that you're not hitting into them or touching

1       them as you get in and out of your seats. Are you aware of  
2       where your body parts are? Wouldn't you be likely to notice if  
3       your arm was suddenly drifting into the space of the juror next  
4       to you? Ladies and gentlemen, when was the last time you just  
5       didn't know where your hands were in a public place?

6               And defense counsel has said over and over again that  
7       Laura didn't jump up, she didn't scream out, that no one on the  
8       plane heard the sexual assault happen. Ms. Ivaniszyn, the SANE  
9       nurse, talked about the body's reaction to trauma. She said  
10      that not every victim of trauma reacts in the same way. She  
11      said sometimes victims yell out but sometimes they freeze, and  
12      all of those things are natural reactions in the body. Laura  
13      was frozen and she was scared.

14             These are just some of the ways that the defendant is  
15      trying to avoid responsibility for violating Laura by  
16      distracting you from the fact that he confessed. Why would you  
17      need DNA evidence when the defendant admitted what he did? If  
18      this didn't happen, why is the first thing that comes out of  
19      the defendant's mouth "I don't know where I kept my hand"? If  
20      this didn't happen, why did he demonstrate with his fingers how  
21      he tried to unhook the victim's bra? If this didn't happen,  
22      why did he pull up his own shirt to show the FBI how he touched  
23      her back? If this didn't happen, why did he take his fingers  
24      and put them in his own zippers to show the FBI what he did to  
25      Laura? If this didn't happen, why did the defendant and the

1 victim both independently use the same gesture to show how he  
2 got his fingers inside of her?

3 If this was a dream, the defendant and the victim  
4 must have both been in the same dream. It wasn't a dream, it  
5 was a nightmare and it was real. Laura told us clearly, "I  
6 didn't dream it, I know what happened." The defendant is  
7 guilty.

8 THE COURT: All right. Thank you very much.

9 Ladies and gentlemen, it's now time for me to give  
10 you your jury instructions and -- but before I do that, I  
11 wanted to briefly confer with counsel so let's have counsel  
12 approach.

13 (Sidebar discussion as follows):

14 THE COURT: I wanted to point out that in Jury  
15 Instruction Number 11, that's the elements of the offense, we  
16 had had the language that said "Adult Victim 1" rather than the  
17 name Laura. I would suggest that I use the name Laura instead  
18 of the name Adult Victim 1.

19 MS. SMITH: That's fine by us.

20 MR. AMBERG: No objection.

21 THE COURT: All right. That's the only change that  
22 I'm aware of. Thank you.

23 MS. SMITH: Okay. Thank you.

24 (End of sidebar discussion)

25 THE COURT: All right. Members of the jury, now it's

1 time for me to instruct you about the law that you must follow  
2 in deciding this case.

3 I'll start by explaining your duties and the general  
4 rules that apply in every criminal case.

5 Then I will explain the elements or parts of the  
6 crime that the defendant is accused of committing.

7 Then I will explain some rules that you must use in  
8 evaluating particular testimony and evidence.

9 And last, I will explain the rules you must follow  
10 during your deliberations in the jury room and the possible  
11 verdicts you may return.

12 Please listen carefully to everything that I say.

13 You have two main duties as jurors. The first one is  
14 to decide what the facts are from the evidence that you saw and  
15 heard here in court. Deciding what the facts are is your job,  
16 not mine. And nothing that I have said or done during this  
17 trial was meant to influence your decision about the facts in  
18 any way.

19 Your second duty is to take the law that I give to  
20 you, apply it to the facts and decide if the government has  
21 proved a defendant guilty beyond a reasonable doubt. It is my  
22 job to instruct you about the law, and you are bound by the  
23 oath that you took at the beginning of the trial to follow the  
24 instructions that I give you even if you personally disagree  
25 with them. This includes the instructions that I gave you

1 before and during the trial and these instructions. All the  
2 instructions are important and you should consider them  
3 together as a whole.

4 The lawyers have talked about the law during their  
5 arguments, but if what they said is different from what I say,  
6 you must follow what I say. What I say about the law controls.

7 Perform these duties fairly. Do not let any bias,  
8 sympathy or prejudice that you may feel toward one side or the  
9 other influence your decision in any way.

10 As you know, the defendant has pleaded not guilty to  
11 the crime charged in the indictment. The indictment is not any  
12 evidence at all of guilt. It is just the formal way that the  
13 government tells the defendant what the crime he -- what crime  
14 he is accused of committing. It does not even raise any  
15 suspicion of guilt.

16 Instead, a defendant starts the trial with a clean  
17 slate, with no evidence at all against him, and the law  
18 presumes that he is innocent. This presumption of innocence  
19 stays with him unless the government presents evidence here in  
20 court that overcomes the presumption and convinces you beyond a  
21 reasonable doubt that he is guilty.

22 This means that a defendant has no obligation to  
23 present any evidence at all or to prove to you in any way that  
24 he is innocent. It is up to the government to prove that he is  
25 guilty, and this burden stays on the government from start to

1 finish. You must find a defendant not guilty unless the  
2 government convinces you beyond a reasonable doubt that he is  
3 guilty.

4 The government must prove every element of the crime  
5 charged beyond a reasonable doubt. Proof beyond a reasonable  
6 doubt does not mean proof beyond all possible doubt. Possible  
7 doubts or doubts based purely on speculation are not reasonable  
8 doubts. A reasonable doubt is a doubt based on reason and  
9 common sense. It may arise from the evidence, the lack of  
10 evidence or the nature of the evidence.

11 Proof beyond a reasonable doubt means proof which is  
12 so convincing that you would not hesitate to rely and act on it  
13 in making the most important decisions in your own lives. If  
14 you are convinced that the government has proved a defendant  
15 guilty beyond a reasonable doubt, say so by returning a guilty  
16 verdict. If you are not convinced, say so by returning a not  
17 guilty verdict.

18 You must make your decision based only on the  
19 evidence that you saw and heard here in court. Do not let  
20 rumors, suspicions or anything else that you may have seen or  
21 heard outside of court influence your decision in any way.

22 The evidence in this case includes only what the  
23 witnesses said while they were testifying under oath, the  
24 exhibits that I allowed into evidence and the stipulations that  
25 the lawyers agreed to.



1           Nothing else is evidence. The lawyers' statements  
2           and arguments are not evidence. Their questions and objections  
3           are not evidence. My legal rulings are not evidence. And my  
4           comments and questions are not evidence.

5           During the trial I might -- I may not have let you  
6           hear the answers to some of the questions that the lawyers  
7           asked. I may have ruled that you could not see some of the  
8           exhibits that the lawyers wanted you to see. And sometimes I  
9           may have ordered you to disregard things that you saw or heard  
10          or struck something from the record. You must completely  
11          ignore all these things if they occurred. Do not even think  
12          about them. Do not speculate about what a witness might have  
13          said or what an exhibit might have shown. These things are not  
14          evidence and you are not bound -- I'm sorry, and you are bound  
15          by your oath not to let them influence your decision in any  
16          way.

17          Make your decision based only on the evidence as I  
18          have defined it here and nothing else.

19          You should use your common sense in weighing the  
20          evidence. Consider it in light of your everyday experience  
21          with people and events and give it whatever weight you believe  
22          it deserves. If your experience tells you that certain  
23          evidence reasonably leads to a conclusion, you are free to  
24          reach that conclusion.

25          Now, some of you may have heard the terms "direct

1 evidence" and "circumstantial evidence."

2 Direct evidence is simply evidence like the testimony  
3 of an eyewitness, which, if you believe it, directly proves a  
4 fact. If a witness testified that he saw it raining outside  
5 and you believed him, that would be direct evidence that it was  
6 raining.

7 Circumstantial evidence is simply a chain of  
8 circumstances that indirectly proves a fact. If someone walked  
9 into the courtroom wearing a raincoat covered with drops of  
10 water and carrying a wet umbrella, that would be circumstantial  
11 evidence from which you could conclude that it was raining.

12 It is your job to decide how much weight to give the  
13 direct and the circumstantial evidence. The law makes no  
14 distinction between the weight that you should give to either  
15 one or say that one is any better evidence than the other. You  
16 should consider all the evidence, both direct and  
17 circumstantial, and give it whatever weight you believe it  
18 deserves.

19 Another part of your job as jurors is to decide how  
20 credible or believable each witness was. This is your job, not  
21 mine. It is up to you to decide if a witness's testimony was  
22 believable and how much weight you think it deserves. You are  
23 free to believe everything that a witness said, or only part of  
24 it, or none of it at all, but you should act reasonably and  
25 carefully in making these decisions.

1           Let me suggest some things for you to consider in  
2           evaluating each witness's testimony.

3           Ask yourself if the witness was able to clearly see  
4           or hear the events. Sometimes even an honest witness may not  
5           have been able to see or hear what was happening and may make a  
6           mistake.

7           Ask yourself how good the witness's memory seemed to  
8           be. Did the witness seem able to accurately remember what  
9           happened?

10          Ask yourself if there was anything else that may have  
11          interfered with the witness's ability to perceive or remember  
12          the events.

13          Ask yourself how the witness acted while testifying.  
14          Did the witness appear honest or did the witness appear to be  
15          lying?

16          Ask yourself if the witness had any relationship to  
17          the government or the defendant or anything to gain or lose  
18          from the case that might influence the witness's testimony.  
19          Ask yourself if the witness had any bias or prejudice or reason  
20          for testifying that might cause the witness to lie or to slant  
21          the testimony in favor of one side or the other.

22          Ask yourself if the witness testified inconsistently  
23          while on the witness stand or if the witness said or did  
24          something or failed to say or do something at any other time  
25          that is inconsistent with what the witness said while

1     testifying. If you believe that the witness was inconsistent,  
2     ask yourself if this makes the witness's testimony less  
3     believable. Sometimes it may, other times it may not.  
4     Consider whether the inconsistency was about something  
5     important or about something -- about some unimportant detail.  
6     Ask yourself if it seemed like an innocent mistake or if it  
7     seemed deliberate.

8             And ask yourself how believable the witness's  
9     testimony was in light of all the other evidence. Was the  
10    witness's testimony supported or contradicted by other evidence  
11    that you found believable? If you believe that a witness's  
12    testimony was contradicted by other evidence, remember that  
13    people sometimes forget things and that even two honest people  
14    who witness the same event may not describe it exactly the same  
15    way.

16            These are only some of the things that you may  
17    consider in deciding how believable each witness was. You may  
18    also consider other things that you think shed some light on  
19    the witness's believability. Use your common sense and your  
20    everyday experience in dealing with other people, and then  
21    decide what testimony you believe and how much weight you think  
22    it deserves.

23            One more point about the witnesses. Sometimes jurors  
24    wonder if the number of witnesses who testified makes any  
25    difference.

1           Do not make any decisions based only on the number of  
2 witnesses who testified. What is more important is how  
3 believable the witnesses were and how much weight you think  
4 their testimony deserves. Concentrate on that, not the  
5 numbers.

6           There is one more general subject that I want to talk  
7 to you about before I begin explaining the elements of the  
8 crime charged.

9           The lawyers for both sides may have objected to some  
10 of the things that were said or done during the trial. Do not  
11 hold that against either side. The lawyers have a duty to  
12 object whenever they think that something is not permitted by  
13 the rules of evidence. Those rules are designed to make sure  
14 that both sides receive a fair trial.

15           And do not interpret my rulings on their objections  
16 as any indication of how I think the case should be decided.  
17 My rulings were based on the rules of evidence, not on how I  
18 feel about the case. Remember that your decision must be based  
19 only on the evidence that you saw and heard here in court.

20           That concludes the part of my instructions explaining  
21 your duties and the general rules that apply in every criminal  
22 case. In a moment I will explain the elements of the crime  
23 that the defendant is accused of committing.

24           But before I do that, I want to emphasize that the  
25 defendant is only on trial for the particular crime charged in

1 the indictment. Your job is limited to deciding whether the  
2 government has proved the crime charged.

3 Count One in the indictment accuses the defendant of  
4 Sexual Abuse, in violation of federal law. Title 18 United  
5 States Code, Section 2242(2) makes it a crime for anyone to  
6 engage in a sexual act with another person if that person is  
7 incapable of appraising the nature of the conduct, incapable of  
8 declining to participate in the sexual act, or incapable of  
9 communicating unwillingness to engage in the sexual act. For  
10 you to find the defendant guilty of this crime, you must be  
11 convinced that the government has proved each and every one of  
12 the following elements beyond a reasonable doubt:

13 First, the defendant knowingly engaged in a sexual  
14 act with Laura.

15 Second, the defendant knew that Laura was incapable  
16 of appraising the nature of the conduct, physically incapable  
17 of declining participation in or communicating unwillingness to  
18 engage in that sexual act.

19 And third, the offense was committed within the  
20 special aircraft jurisdiction of the United States.

21 The term "sexual act" means the penetration, however  
22 slight, of the anal or genital opening of another by a hand or  
23 finger or by any object with an intent to abuse, humiliate,  
24 harass, degrade, or arouse or gratify the sexual desire of any  
25 person.

1           The term "special aircraft jurisdiction of the United  
2 States" includes a civil aircraft of the United States.

3           If you are convinced the government has proved all of  
4 these elements, say so by returning a guilty verdict on this  
5 charge. If you have a reasonable doubt about any one of those  
6 elements, then you must find the defendant not guilty of this  
7 charge.

8           Count One of the indictment includes attempting to  
9 commit the crime of Sexual Abuse. For you to find the  
10 defendant guilty of attempting to commit Sexual Abuse, you must  
11 be convinced that the government has proved beyond a reasonable  
12 doubt:

13           First, that the defendant intended to commit the  
14 crime of Sexual Abuse.

15           Second, that the defendant did some overt act that  
16 was a substantial step towards committing the crime of Sexual  
17 Abuse.

18           Merely preparing to commit a crime is not a  
19 substantial step. The defendant's conduct must go beyond mere  
20 preparation and must strongly confirm that he intended to  
21 commit the crime of Sexual Abuse. But the government does not  
22 have to prove that the defendant did everything except the last  
23 act necessary to complete the crime. A substantial step beyond  
24 mere preparation is enough.

25           If you are convinced that the government has proved

1 both of these elements, say so by returning a guilty verdict on  
2 this charge. If you have a reasonable doubt about either one  
3 of these elements, then you must find the defendant not guilty.

4 Next I want to say a word about the date mentioned in  
5 the indictment.

6 The indictment charges that the crime occurred on or  
7 about January 3rd, 2018. The government does not have to prove  
8 that the crime happened on that exact date, but the government  
9 must prove that the crime happened reasonably close to that  
10 date.

11 Next I want to explain something about proving a  
12 defendant's state of mind.

13 Ordinarily there is no way that a defendant's state  
14 of mind can be proven directly because no one can read another  
15 person's mind and tell what that person is thinking.

16 But a defendant's state of mind can be proved  
17 indirectly from the surrounding circumstances. This includes  
18 things like what the defendant said, what the defendant did,  
19 how the defendant acted, and any other facts or circumstances  
20 in evidence that show what was in the defendant's mind.

21 You may also consider the natural and probable  
22 results of any acts that the defendant knowingly did or did not  
23 do and whether it is reasonable to conclude that the defendant  
24 intended those results. This, of course, is all for you to  
25 decide.



1           That concludes the part of my instructions explaining  
2           the elements of the crime.

3           Next I will explain some rules that you must use in  
4           considering some of the testimony and evidence.

5           A defendant has an absolute right not to testify.  
6           The fact that a defendant did not testify cannot be considered  
7           by you in any way. Do not even discuss it in your  
8           deliberations.

9           Remember that it is up to the government to prove a  
10          defendant guilty beyond a reasonable doubt. It is not up to a  
11          defendant to prove that he is innocent.

12          You have heard the testimony of Marcy Plaza from the  
13          FBI who testified to both facts and opinions. Each of these  
14          types of testimony should be given the proper weight.

15          As to the testimony on facts, considered the factors  
16          discussed earlier in these instructions for weighing the  
17          credibility of witnesses.

18          As to the testimony on opinions, you do not have to  
19          accept Marcy Plaza's opinions. In deciding how much weight to  
20          give them, you should consider the witness's qualifications and  
21          how she reached her conclusions along with the other factors  
22          discussed in these instructions for weighing the credibility of  
23          witnesses.

24          Remember that you alone decide how much of a  
25          witness's testimony to believe and how much weight it deserves.

1           You have heard the testimony of a number of  
2 witnesses. You have also heard that before trial some of these  
3 witnesses made statements that may be different from his or her  
4 testimony here in court.

5           These earlier statements were brought to your  
6 attention only to help you decide how believable his or her  
7 testimony was. You cannot use it as proof of anything else.  
8 You can only use it as one way of evaluating his or her  
9 testimony here in court.

10           You have heard some video recordings that were  
11 received in evidence and you were given some written  
12 transcripts of the videos.

13           Keep in mind that the transcripts are not evidence.  
14 They were given to you only as a guide to help you follow what  
15 was being said. The videos themselves are evidence. If you  
16 noticed any differences between what you heard on the videos  
17 and what you read in the transcripts, you must rely on what you  
18 heard, not what you read. And if you could not hear or  
19 understand certain parts of the tapes, you must ignore the  
20 transcripts as far as those parts are concerned.

21           You have heard evidence that the defendant, Prabhu  
22 Ramamoorthy, made a statement in which the government claims he  
23 admitted certain facts. It is for you to decide whether the  
24 defendant made that statement and, if so, how much weight it  
25 deserves. In making these decisions, you should consider all

1 of the evidence about the statement, including the  
2 circumstances under which the defendant allegedly made it.

3 You may not convict the defendant solely upon his own  
4 uncorroborated statement or admission.

5 That concludes the part of my instructions explaining  
6 the rules for considering some of the testimony and evidence.  
7 Now let me finish up by explaining some things about your  
8 deliberations in the jury room and your possible verdict.

9 The first thing you should do in the jury room is  
10 choose someone to be your foreperson. This person will help to  
11 guide your decisions and will speak for you here in court.

12 Once you start deliberating, do not talk to the jury  
13 officer or to me or to anyone else except each other about the  
14 case. If you have any questions or messages, you must write  
15 them down on a piece of paper, sign them and give them to the  
16 jury officer. The officer will give them to me and I will  
17 respond to them as soon as I can. I may have to talk to the  
18 lawyers about what you have asked, so it may take me some time  
19 to get back to you. Any questions or messages normally should  
20 be sent to me through your foreperson.

21 If you want to see any of the video exhibits that  
22 were admitted in evidence or any of the exhibits, you may send  
23 me a message and those exhibits will be provided to you.

24 One more thing about messages. Do not ever write  
25 down or tell anyone how you stand on your votes. For example,

1 do not write down or tell anyone that you are split 6 to 6 or  
2 8 to 4 or whatever your vote happens to be. That should stay  
3 secret until you are finished.

4 Remember that you must make your decision based only  
5 on the evidence that you saw and heard here in court.

6 During your deliberations you must not communicate  
7 with or provide any information to anyone by any means about  
8 this case. You may not use any electronic device or media such  
9 as a telephone, cell phone, smartphone, iPhone, Blackberry or  
10 computer, the Internet, or any Internet service, or any text or  
11 instant messaging service, any Internet chat room, blog or  
12 websites such as Facebook, MySpace, LinkedIn, YouTube or  
13 Twitter to communicate to anyone any information about this  
14 case or to conduct any research about this case until I accept  
15 your verdict. In other words, you cannot talk to anyone on the  
16 phone, correspond with anyone, or electronically communicate  
17 with anyone about this case. You can only discuss the case in  
18 the jury room with your fellow jurors during deliberations. I  
19 expect you will inform me as soon as you become aware of  
20 another juror's violation of these instructions if that  
21 happens.

22 You may not use these electronic means to investigate  
23 or communicate about the case because it is important that you  
24 decide this case based solely on the evidence presented in this  
25 courtroom. Information on the Internet or available through

1 social media might be wrong, incomplete or inaccurate. You are  
2 only permitted to discuss the case with your fellow jurors  
3 during deliberations because they have seen and heard the same  
4 evidence you have. In our judicial system it is important that  
5 you are not influenced by anything or anyone outside of this  
6 courtroom. Otherwise, your decision may be based on  
7 information known only by you and not your fellow jurors or the  
8 parties in this case. This would unfairly and adversely impact  
9 the judicial process. A juror who violates these restrictions  
10 jeopardizes the fairness of these proceedings and a mistrial  
11 could result which would require the entire process to start  
12 over.

13 Your verdict, whether it is guilty or not guilty,  
14 must be unanimous.

15 To find the defendant guilty of a particular charge,  
16 every one of you must agree that the government has overcome  
17 the presumption of innocence with evidence that proves the  
18 defendant's guilt beyond a reasonable doubt.

19 To find the defendant not guilty of a particular  
20 charge, every one of you must agree that the government has  
21 failed to convince you beyond a reasonable doubt.

22 Either way, guilty or not guilty, your verdict must  
23 be unanimous.

24 One more point about the requirement that your  
25 verdict must be unanimous. Count One of the indictment accuses

1 the defendant of committing the crime of Sexual Abuse in more  
2 than one possible way. The first is that he committed Sexual  
3 Abuse. The second is that he attempted to commit Sexual Abuse.

4 The government does not have to prove all of these  
5 for you to return a guilty verdict on this charge. Proof  
6 beyond a reasonable doubt of any one of these ways is enough.  
7 In order to return a guilty verdict, all 12 of you must agree  
8 that at least one of these has been proved. However, all of  
9 you need not agree that the same one has been proved.

10 Now that all of the evidence is in and the arguments  
11 are completed, you are free to talk about the case in the jury  
12 room. In fact, it is your duty to talk with each other about  
13 the evidence and to make every reasonable effort you can to  
14 reach unanimous agreement. Talk with each other, listen  
15 carefully and respectfully to each other's views, and keep an  
16 open mind as you listen to what your fellow jurors have to say.  
17 Try your best to work out your differences. Do not hesitate to  
18 change your mind if you are convinced that other jurors are  
19 right and that your original position was wrong.

20 But do not ever change your mind just because other  
21 jurors see things differently or just to get the case over  
22 with. In the end, your vote must be exactly that, your own  
23 vote. It is important for you to reach unanimous agreement,  
24 but only if you can do so honestly and in good conscience.

25 No one will be allowed to hear your discussions in

1 the jury room and no record will be made of what you say, so  
2 you should all feel free to speak your minds.

3 Listen carefully to what the other jurors have to say  
4 and then decide for yourself if the government has proved the  
5 defendant guilty beyond a reasonable doubt.

6 If you decide that the government has proved the  
7 defendant guilty, then it will be my job to decide what the  
8 appropriate punishment should be.

9 Deciding what the punishment should be is my job, not  
10 yours. It would violate your oaths as jurors to even consider  
11 the possible punishment in deciding your verdict.

12 Your job is to look at the evidence and decide if the  
13 government has proved the defendant guilty beyond a reasonable  
14 doubt.

15 Let me finish by repeating something that I said to  
16 you earlier. Nothing that I have said or done during this  
17 trial was meant to influence your decision in any way. You  
18 decide for yourselves if the government has proved the  
19 defendant guilty beyond a reasonable doubt.

20 Remember that if you elected to take notes during the  
21 trial, your notes should be used only as memory aids. You  
22 should not give your notes greater weight than your independent  
23 recollection of the evidence. You should rely upon your own  
24 independent recollections of the evidence and you should not be  
25 unduly influenced by the notes of other jurors. Notes are not

1 entitled to any more weight than the memory or impression of  
2 each juror.

3 Whether you took notes or not, each of you must form  
4 and express your own opinion as to the facts of this case.

5 I have prepared a verdict form that I will provide to  
6 you that you should use to record your verdict. You will also  
7 receive a copy of these jury instructions after I confer with  
8 counsel, and you will have them with you to refer to if you  
9 wish to.

10 Now, we do need to perform our duty of selecting the  
11 alternate to be excused at this time, is that right, Counsel?

12 MS. SMITH: Yes, Your Honor.

13 MR. AMBERG: Yes, Your Honor.

14 THE COURT: So I'm going to ask Ms. Chubb, our case  
15 manager, to select at random the names of one of the jurors and  
16 that person will not be participating during deliberations.

17 (Brief pause)

18 All right. The number that has been selected at  
19 random is No. 10, and that is Ms. Kristin Matthews. And so Ms.  
20 Matthews, I -- I must tell you that you may be excused at this  
21 time and I want to thank you. I can tell by your expression  
22 that you paid close attention during the trial and that you  
23 were certainly willing to participate during deliberations.  
24 And so to the extent that you are disappointed that you will  
25 not participate in the ultimate decision, I nevertheless want



1 to thank you for your time and your attention and to remind you  
2 not to discuss the case with anyone else.

3 And is there anything further we need to do regarding  
4 this juror?

5 MS. SMITH: Yes, Your Honor. As you discussed that  
6 she shouldn't discuss the case with anybody else, there's  
7 always a possibility that she may be called to come back for  
8 deliberations, so until the -- until the jury has finished  
9 deliberations, she is still under her oath.

10 THE COURT: Yes, that's a good point. That's also a  
11 reason we choose alternates because we need 12 people to  
12 consider the evidence, and if -- if for some reason someone  
13 should fall ill or have some other difficulty in serving, you  
14 might be required to return. And so that's another reason not  
15 to talk about the case, not to do any research about the case,  
16 not to do anything that would affect your ability to serve as a  
17 fair and impartial juror.

18 All right. Anything further? All right. Thank you  
19 very much.

20 (Juror Matthews excused at 12:24 p.m.)

21 We will all rise for the jury and -- sorry, hold on  
22 one -- I -- I realize I need to swear our deputies, right?  
23 Okay. We are going to have Mr. Darling and Ms. Chubb sworn to  
24 be the person who's going to communicate between you and the  
25 Court during your process, and so they are the folks that you

1 can communicate to.

2 So please raise your right hands. Do you solemnly  
3 swear that you will keep all members sworn upon this panel in  
4 some private and convenient place, and that you will permit no  
5 one to communicate with them nor communicate with them yourself  
6 except to inquire if they have agreed upon a verdict until  
7 discharged by this Court, so help you God?

8 THE CLERK: I do.

9 THE LAW CLERK: I do.

10 THE COURT: All right. Then you may be the bailiffs  
11 in this case for the jury. And we can all rise for our members  
12 of the jury and you may retire to the jury room.

13 (Jury excused at 12:24 p.m.)

14 THE COURT: You may be seated.

15 The jury, as I understand it, is going to have lunch  
16 brought in, so they'll be able to have lunch brought in. They  
17 don't necessarily have to break for lunch.

18 Are there any matters we need to up regarding the  
19 jury instructions?

20 MS. SMITH: Oh, not the jury instructions, Your  
21 Honor.

22 THE COURT: All right.

23 MR. AMBERG: No, Your Honor.

24 THE COURT: Do we need to deal with motions?

25 MR. AMBERG: Yes. The Rule 29 motion, Your Honor, I

1 know that the government allowed me to argue this now as  
2 opposed to when it probably should have been argued after the  
3 close of their proofs.

4 You've heard my extensive closing argument and our  
5 position about all the evidence. I would argue that, you know,  
6 based on the -- the lack of DNA evidence, the lack of any other  
7 physical evidence and things of that nature, that Your Honor  
8 should acquit the defendant even in the light most favorable to  
9 the government.

10 THE COURT: All right. Thank you very much, Mr.  
11 Amberg.

12 In terms of your motion, I would indicate that I have  
13 been present throughout the proceedings and presided over the  
14 trial. I was paying attention during the testimony, and in  
15 particular the testimony of the victim in this case, Laura, who  
16 did testify that she recalled a sexual act occurring in the  
17 sense that she recalled the defendant's finger penetrating her  
18 vagina on the aircraft and that she had no doubt of that. That  
19 was evidence that would prove the defendant's guilt of this  
20 offense in terms of the count.

21 In addition, that she was asleep prior to that and  
22 that that incident is what woke her up would deal with the  
23 element of her inability to appraise the nature of the conduct.

24 There's no dispute that the incident occurred on an  
25 aircraft in the special aircraft jurisdiction of the United

1 States.

2 And the additional evidence included the videotaped  
3 statement, the interview of the defendant. The interview  
4 includes statements that could reasonably be interpreted as  
5 admissions by the defendant that he tried to penetrate the  
6 victim, and that would be sufficient to prove attempt.

7 There was additional corroborating evidence that  
8 consisted of the other witnesses who testified, including the  
9 flight attendants and the -- the nurse from SANE.

10 And although I certainly do understand the arguments  
11 of the defense here with respect to the fact that there was no  
12 confirmation in terms of the presence of DNA from the victim on  
13 Mr. Ramamoorthy or from Mr. Ramamoorthy on the victim, viewing  
14 this evidence in the light most favorable to the government,  
15 which I must do, I believe a reasonable juror could find beyond  
16 a reasonable doubt that Mr. Ramamoorthy is guilty of the  
17 offense charged in the indictment. And so the motion will be  
18 denied.

19 So that's my ruling on that. Is there anything else  
20 we need to handle?

21 MS. SMITH: Not from the United States.

22 MR. AMBERG: I guess housekeeping, as we wait for the  
23 verdict, where do you want us, do you want us here or could I  
24 maybe sneak out and grab a salad?

25 THE COURT: I think we can take a break for lunch, I

1 think that would be perfectly fine if -- if you all want to go  
2 and have lunch for an hour or so. After that I would say if  
3 you can remain nearby. Your office is not downtown, correct,  
4 Mr. Amberg?

5 MR. AMBERG: No, it's on top of Tom's Oyster Bar in  
6 Royal Oak, Your Honor.

7 THE COURT: All right. No comment about the --

8 MR. AMBERG: It's fun.

9 THE COURT: Yes. Well, that's probably better that  
10 you stay here.

11 MR. AMBERG: Absolutely. I just --

12 THE COURT: And I guess I'll leave it up to the  
13 government, since they're across the street, if they want to  
14 stay across the street. What's your preference on that?

15 MS. SMITH: I think we'll stay here.

16 THE COURT: All right. Sounds good.

17 Were there any issues about the jury instructions  
18 that we need to take up, were there anything that --

19 MS. SMITH: No, I don't think so.

20 MR. AMBERG: No, Your Honor. Did we -- you know,  
21 I -- the other day we were talking about the verdict form. I  
22 did get it, I reviewed it, I have no objection to it.

23 MS. SMITH: Okay.

24 MR. AMBERG: I don't know if we put that on the  
25 record or not but I...

1 THE COURT: Do we have that, do we have the verdict  
2 form right here handy? We have it back there. All right.  
3 I'll go inspect the verdict form and we'll deliver it -- both  
4 of you have seen the verdict form and neither side has any  
5 objections to the verdict form, is that right?

6 MS. SMITH: No, Your Honor, no objections.

7 MR. AMBERG: That's correct, Your Honor, no  
8 objections.

9 THE COURT: Then I will deliver the verdict form to  
10 them along with the jury instructions. And we'll give them a  
11 copy of the indictment as well?

12 MS. SMITH: No objection to that.

13 MR. AMBERG: No objection.

14 THE COURT: All right. Let's not -- we probably  
15 don't need to include this cover sheet on the back. All right.

16 Well, thank you very much. Then we can -- yes, Ms.  
17 Smith.

18 MS. SMITH: Sorry, one more. I just noticed that Ms.  
19 Kumar is still in the courtroom. I believe she's waiting to be  
20 dismissed by the Court.

21 THE COURT: All right. Any objection to dismissing  
22 our intrepid second translator?

23 MR. AMBERG: No objection, Your Honor.

24 THE COURT: All right. Thank you very much, Ms.  
25 Kumar, for coming. You may be excused. And again I apologize

1 for the disruption of your schedule.

2 All right. If there's nothing further, then let's be  
3 adjourned and we'll be in recess while the jury's in  
4 deliberation. Thank you very much.

5 MS. SMITH: Thank you.

6 THE LAW CLERK: All rise. Court is in recess.

7 (Brief pause)

8 THE COURT: Ms. Smith, Mr. Amberg?

9 MR. AMBERG: Yes.

10 THE COURT: Just hold on. I wanted to ask you about  
11 the exhibits so we're going to go back on the record for a  
12 moment.

13 MR. AMBERG: Okay.

14 MS. SMITH: On the record?

15 THE COURT: Yes.

16 MS. SMITH: Okay.

17 THE COURT: All right. So I wanted to ask counsel  
18 whether or not we should just give the jury the book of  
19 exhibits or not.

20 MS. SMITH: I -- I'd prefer that the jury ask if they  
21 want to see the exhibits as opposed to just giving them the  
22 whole book.

23 THE COURT: Okay.

24 MR. AMBERG: It doesn't -- I apologize, Your Honor.

25 THE COURT: Go ahead.

1 MR. AMBERG: It doesn't matter to me. I would just  
2 ask that the -- the front part, Department of Justice logo  
3 thing, is taken out of there so it just looks like it's totally  
4 independent. And I don't think there's anything else in there  
5 besides that, right?

6 THE COURT: And so we will -- we'll hold on to them  
7 unless they ask for them.

8 With respect to playing any videos, if they ask to  
9 play any videos, did we determine whether anybody has a laptop  
10 that can be used or what are we going to do on that?

11 THE LAW CLERK: We have one.

12 THE COURT: We have one. All right. So the Court  
13 has -- has a blank one that we can use?

14 THE LAW CLERK: Yes.

15 THE COURT: All right. So the Court will provide a  
16 blank laptop that they could play. Is there any special  
17 software needed for that?

18 MS. SMITH: I don't think so.

19 MS. O'CONNOR: No. You should be able just to pop  
20 the disk in and play it.

21 THE COURT: Very good. All right. Thank you all  
22 very much.

23 MR. AMBERG: Thank you, Your Honor.

24 MS. SMITH: Thank you.

25 (Court in recess at 12:34 p.m.)



1 (Proceedings resumed at 3:44 p.m., all parties  
2 present, jury not present)

3 THE COURT: Good afternoon, Counsel.

4 So we have a question from the jury that I would like  
5 to share with you. The question is, "Are there two charges  
6 under consideration, i.e., one, Sexual Abuse, two, attempted  
7 Sexual Abuse." There follow three question marks. Then the  
8 statement, "The verdict form only includes Sexual Abuse.  
9 Please clarify. Thank you."

10 So I'm open to your thoughts on this. I will tell  
11 you, if you would like, what I was thinking of doing. What I  
12 was thinking of doing was to refer them to those parts of the  
13 jury instructions that contain the elements for Sexual Abuse,  
14 those parts of the jury instruction that contain the elements  
15 of attempted Sexual Abuse, and then Jury Instruction 24 which  
16 explains that they need not be unanimous on which way the  
17 offense is committed.

18 To be more specific, I can tell you exactly what I  
19 was thinking of doing. What I was thinking of doing was to say  
20 this. The charge contained in Count One of the Superseding  
21 Indictment of Sexual Abuse includes both Sexual Abuse and  
22 attempted Sexual Abuse.

23 To find the defendant guilty of Sexual Abuse, you  
24 must find that the government has proved all of the elements in  
25 Jury Instruction 11 beyond a reasonable doubt.

1           To find the defendant guilty of attempted Sexual  
2 Abuse, you must find the government has proved all the elements  
3 in Jury Instruction 12 beyond a reasonable doubt.

4           Then I was going to essentially reread Jury  
5 Instruction 24.

6           So that's my proposal, but I'd be interested in  
7 hearing what counsel has to say.

8           MS. SMITH: I think that's right. I think that  
9 explaining -- rereading, yes, I agree. I think that's the  
10 correct way to handle it.

11          MR. AMBERG: Agreed, Your Honor.

12          THE COURT: And so again, so that we're clear, I will  
13 not reread the words of Jury Instruction 11 and Jury  
14 Instruction 12. I will simply refer them to those. But I will  
15 reread all of Jury Instruction 24.

16          MS. SMITH: And 24 is the one where you say that it  
17 can be proved either way and they don't have to be unanimous,  
18 is that the right one?

19          THE COURT: Yes. This is what it says: "One more  
20 point about the requirement that your verdict be unanimous.  
21 Count One of the indictment accuses the defendant of committing  
22 the crime of Sexual Abuse in more than one possible way. The  
23 first is that he committed Sexual Abuse. The second is that he  
24 attempted to commit Sexual Abuse.

25          "The government does not have to prove all of these

1 for you to return a guilty verdict on this charge. Proof  
2 beyond a reasonable doubt of any one of these ways is enough.  
3 In order to return a guilty verdict, all 12 of you must agree  
4 that at least one of these has been proved. However, all of  
5 you need not agree that the same one has been proved."

6 MS. SMITH: I agree.

7 THE COURT: That's what that instruction says.

8 MS. SMITH: Yes, we agree with that. Thank you.

9 MR. AMBERG: That's fine, Your Honor, yes.

10 THE COURT: Very good. Should we bring in the jury  
11 and I will deliver that answer?

12 MS. SMITH: Yes. Thank you.

13 (Jury entered the courtroom at 3:48 p.m.)

14 THE COURT: Well, good afternoon, ladies and  
15 gentlemen. You may be seated. You may be seated, Counsel.

16 Ladies and gentlemen, I received a question from you  
17 from your foreperson and this is the question. I have already  
18 presented this to the attorneys in this case and discussed it  
19 with them and also discussed what the answer to the question  
20 is. And so I'm going to read your question and then I will  
21 indicate the answer.

22 The question that I received is: "Are there two  
23 charges under consideration, i.e., one, Sexual Abuse, two,  
24 attempted Sexual Abuse?" There follow three question marks.  
25 "The verdict form only includes Sexual Abuse. Please clarify.

1 Thank you."

2 In response to this question, after conferring with  
3 counsel, the charge in Count One of the Superseding Indictment  
4 of Sexual Abuse includes both Sexual Abuse and attempted Sexual  
5 Abuse.

6 To find the defendant guilty of Sexual Abuse, you  
7 must find the government has proved all the elements in Jury  
8 Instruction 11 beyond a reasonable doubt.

9 To find the defendant guilty of attempted Sexual  
10 Abuse, you must find the government has proved all of the  
11 elements in Jury Instruction 12 beyond a reasonable doubt.

12 One more point about the requirement that your  
13 verdict must be unanimous, and this is taken from Jury  
14 Instruction 24. These are jury instructions that you already  
15 have. Count One of the indictment accuses the defendant of  
16 committing the crime of Sexual Abuse in more than one possible  
17 way. The first is that he committed Sexual Abuse. The second  
18 is that he attempted to commit Sexual Abuse.

19 The government does not have to prove all of these  
20 for you to return a guilty verdict on this charge. Proof  
21 beyond a reasonable doubt of any one of these ways is enough.  
22 In order to return a guilty verdict, all 12 of you must agree  
23 that at least one of these has been proved. However, all of  
24 you need not agree that the same one has been proved.

25 The jury instructions that I've just mentioned were

1 Jury Instructions 11, Jury Instructions 12 and Jury Instruction  
2 24.

3 That is the answer of the Court. And so unless there  
4 is anything else that the attorneys wish to add, or let me just  
5 ask you, are you satisfied with the answer that the Court has  
6 given?

7 MS. SMITH: Satisfied, Your Honor.

8 MR. AMBERG: Satisfied, Your Honor.

9 THE COURT: Very good. All right, ladies and  
10 gentlemen, you may return to your deliberations. All rise for  
11 the jury.

12 (Jury entered the courtroom at 3:52 p.m.)

13 THE COURT: You may be seated.

14 It is approximately ten minutes or five minutes to  
15 4:00 o'clock. I think what I may do, depending on what you all  
16 think of this, is to have Ms. Chubb inquire whether the jury  
17 believes that they would want to continue deliberating until  
18 the end of today or whether they would rather come back until  
19 tomorrow in light of where they currently are. What are your  
20 preferences regarding that?

21 MS. SMITH: I guess we don't have a preference. When  
22 you say end of the day, are talking one more hour or are you  
23 talking later than 5:00?

24 THE COURT: Well, I think -- what I'm getting at,  
25 needless to say, is that if they are near reaching a verdict

1 but they're feeling that they just need to discuss a little bit  
2 longer, then I hesitate to have them come back tomorrow.

3 But on the other hand, if they know that they really  
4 have a lot more to discuss in this case and maybe they're tired  
5 and they'd rather take a break, then I would be happy to let  
6 them take a break.

7 So I was just going to try to see where we were on  
8 that. But we could also just wait and depend on them to -- if  
9 we don't hear from them, I'll probably, let's say, let them go  
10 at about 4:30, quarter to 5:00 just so they can beat the  
11 traffic. But I think they know that the business day is pretty  
12 much the end of their deliberations day.

13 MS. SMITH: Right.

14 THE COURT: So what are your -- what are your  
15 preferences?

16 MS. SMITH: I guess -- do we have a preference? I  
17 don't think we have a preference.

18 MR. AMBERG: I think that's a good idea what you  
19 proposed, Judge, see what they want to do. If they want to  
20 come back in the morning, you know, when they're fresh, there's  
21 more issues they want to discuss, versus going at it at the end  
22 of the day.

23 THE COURT: All right. What we'll do is we'll let  
24 them know that if they -- if they feel it would be beneficial  
25 to continue until the end of the day, that we'll allow them to

1 do that.

2 MS. SMITH: Okay.

3 THE COURT: Otherwise, we'll probably let them go at  
4 about 4:30, quarter to 5:00.

5 MS. SMITH: That seems fine.

6 MR. AMBERG: Okay. Thank you, Your Honor.

7 THE COURT: All right. Thank you very much. We're  
8 in recess.

9 THE CLERK: Court is in recess.

10 (Court in recess at 3:55 p.m.)

11 (Proceedings resumed at 4:05 p.m., all parties  
12 present, jury not present)

13 THE COURT: Counsel, would you place your appearances  
14 on the record again please?

15 MS. JAWAD: Yes. Good afternoon, Your Honor. Amanda  
16 Jawad and Maggie Smith on behalf of the United States. With us  
17 at counsel table is Meghann O'Connor, a paralegal from our  
18 office, and Special Agent Kyle Dodge with the FBI.

19 THE COURT: Good afternoon.

20 MR. AMBERG: And good afternoon, Your Honor. Jim  
21 Amberg on behalf of Mr. Ramamoorthy. He is standing to my  
22 right. To his right is Mr. Vijay. To my left is co-counsel,  
23 Victor Mansour.

24 THE COURT: Good afternoon, Counsel. Good afternoon,  
25 Mr. Ramamoorthy.

1 Well, I understand that the jury has indicated that  
2 they have reached a verdict, and so my intention would be to  
3 take the verdict at this time. Is there anything that we need  
4 to do before we bring in the jury?

5 MS. SMITH: Not before, no. Thank you.

6 THE COURT: All right. Let's bring in the jury.

7 (Jury entered the courtroom at 4:06 p.m.)

8 THE COURT: Good afternoon, ladies and gentlemen.  
9 You may be seated.

10 So, ladies and gentlemen, I received a notification  
11 that you indicated that you had reached a verdict. And so let  
12 me first ask were you able to select a foreperson? All right.  
13 And can I ask the foreperson to raise his or her hand? Thank  
14 you, sir.

15 Now, is it -- without telling me what the verdict is,  
16 is it true that you were able to reach a verdict?

17 JUROR NO. 1: Yes.

18 THE COURT: All right. Without indicating what the  
19 verdict is, could you hand the verdict to my law clerk please,  
20 and let's also give it to our...

21 All right. I'm going to give the verdict form to Ms.  
22 Chubb in order for her to publish it in open court.

23 THE CLERK: In the matter of the United States of  
24 America versus Prabhu Ramamoorthy, Criminal No. 18-20027,  
25 verdict form, the jury unanimously finds the following on Count



1 One: With respect to the charge in Count One of the  
2 indictment, which charges the defendant with Sexual Abuse, the  
3 jury finds guilty. Signed and dated this day, August 15th,  
4 2018, signed by the foreperson.

5 THE COURT: All right. Thank you very much.

6 Now, I want to ask counsel if you wish to have the  
7 jury polled. So, ladies and gentlemen, the counsel have a  
8 right to ask whether or not for each of you the verdict that  
9 was just read in open court is your verdict, and so I'm asking  
10 the lawyers whether or not they wish to do that. Does either  
11 counsel wish to have the jury polled?

12 MS. SMITH: I don't need to, Your Honor.

13 MR. AMBERG: Yes, Your Honor.

14 THE COURT: All right. Then Ms. Chubb, I would ask  
15 you to please poll the jury.

16 THE CLERK: Juror in seat number one, Mr. Pletcher --

17 THE COURT: And if you could stand when you --

18 THE CLERK: -- you've listened to the verdict as the  
19 Court has read it. Is that and was that your verdict?

20 JUROR NO. 1: Yes, ma'am.

21 THE CLERK: Thank you.

22 Juror in seat number two, was that and is that your  
23 verdict.

24 JUROR NO. 2: Yes, ma'am.

25 THE CLERK: Thank you.

1 Juror No. 3, is that and was that your verdict?

2 JUROR NO. 3: Yes.

3 THE CLERK: Thank you.

4 Juror in seat number four, is that and was that your  
5 verdict?

6 JUROR NO. 4: Yes.

7 THE CLERK: Thank you.

8 Juror in seat number five, is that and was that your  
9 verdict?

10 JUROR NO. 5: Yes.

11 THE CLERK: Juror in seat number six, is that and was  
12 that your verdict?

13 JUROR NO. 6: Yes.

14 THE CLERK: Juror in seat number seven, is that and  
15 was that your verdict?

16 JUROR NO. 7: Yes.

17 THE CLERK: Thank you.

18 Juror in seat number nine, is that and was that your  
19 verdict?

20 JUROR NO. 9: Yes.

21 THE CLERK: Thank you.

22 Juror in seat number 11, is that and was that your  
23 verdict?

24 JUROR NO. 11: Yes.

25 THE CLERK: Thank you.

1 Juror in seat number 12, is that and was that your  
2 verdict?

3 JUROR NO. 12: Yes.

4 THE CLERK: Juror in seat number 13, is that and was  
5 that your verdict?

6 JUROR NO. 13: Yes.

7 THE CLERK: Juror in seat number 14, is that and was  
8 that your verdict?

9 JUROR NO. 14: Yes.

10 THE COURT: Well, thank you, ladies and gentlemen.  
11 I'm going to discharge you from your service at this time,  
12 unless there's any issue that the parties believe they wish to  
13 raise in the presence of the jury at this time.

14 MS. SMITH: No thank you.

15 MR. AMBERG: No, Your Honor.

16 THE COURT: All right. And, ladies and gentlemen, if  
17 you'd be kind enough to wait briefly in the jury room, I would  
18 like to confer with you for just a few moments and then you can  
19 be discharged after that.

20 And so let's all rise for the jury. Let me thank you  
21 as well on the record for your service in this case which I  
22 know is difficult and a sacrifice.

23 (Jury excused at 4:10 p.m.)

24 THE COURT: You may be seated.

25 Are there any matters we need to take up at this

1 time?

2 MS. SMITH: Yes, Your Honor. Now that the jury has  
3 reached a verdict and the defendant has been convicted, we are  
4 moving under 18 United States Code, Section 3143(a) (2) for the  
5 defendant's remand into custody.

6 THE COURT: Now, when you say (a) (2), what are you  
7 referring to exactly?

8 MS. SMITH: I am referring to the provision in the  
9 Bail Reform Act that states that "Release or Detention Pending  
10 Sentence," which is where we are at now under criminal  
11 procedure, and it states that "the judicial officer shall order  
12 a person who has been found guilty of an offense in a case  
13 described in subparagraph (A), (B) or (C) of subsection  
14 parentheses (f) parentheses (1) of Section 3142 and is awaiting  
15 the imposition or execution of sentence be detained unless,"  
16 and under Section (A) (i) it says "unless the judicial officer  
17 finds there is a substantial likelihood that a motion for  
18 acquittal or new trial will be granted, or an attorney for the  
19 government has recommended no sentence of imprisonment be  
20 imposed on the person, and that the judicial officer finds by  
21 clear and convincing evidence that the person is not likely to  
22 flee or pose a danger to any other person or the community."

23 Your Honor, this defendant's offense qualifies under  
24 subsection (f) (1) of 3142 because it is an offense for which  
25 the maximum sentence is life.

1           And I can provide further argument for the basis as  
2       to why the defendant cannot show by clear and convincing  
3       evidence that he is not likely to flee or pose a danger if the  
4       Court would like me to.

5           THE COURT: All right. Thank you very much.

6           Any response?

7           MR. AMBERG: Yes, Your Honor. I would ask that he be  
8       allowed to stay out on bond pending sentencing. He's done  
9       great so far since he's been on bond. He has a tether. He has  
10      ties to the community. He has a job here, as you know. His  
11      wife is here as well. Allowing him to stay out on bond pending  
12      sentencing will allow him to get his affairs in order.

13           Although, yes, it is a life sentence on the other  
14      side, I don't believe there's any mandatory minimum, and I'll  
15      be asking for a low sentence at the time of sentencing.

16           And so I would ask that you allow him to stay out  
17      here. So far he's been able to do it. He's had I think no  
18      problems from what I can remember while he's been out on bond.  
19      He's been out on bond since I think since February or March.  
20      And so I would ask that you continue the bond.

21           THE COURT: The Court has reviewed the statute that  
22      is referred to by the government, which is Section 3143, and  
23      the offense is an offense that would require detention upon  
24      conviction except in the circumstances that are specifically  
25      listed there. I do not believe there's a substantial

1 likelihood that a motion for acquittal or a new trial would be  
2 granted. The government has not recommended a sentence of no  
3 imprisonment.

4 The question of whether or not I can find by clear  
5 and convincing evidence that Mr. Ramamoorthy is not likely to  
6 flee is the issue that I need to decide.

7 We did have a detention hearing in this case, and  
8 although I did grant Mr. Ramamoorthy a bond at that time, the  
9 question there was whether or not there was clear and  
10 convincing evidence that he was going to flee, not whether  
11 there was clear and convincing evidence that he is not going to  
12 flee. There was evidence presented at the time that Mr.  
13 Ramamoorthy did have an incentive to flee.

14 At the same time, I recognize that he has complied  
15 with his bond conditions up until this point, and that's the  
16 argument that Mr. Amberg is mentioning that I think is  
17 relevant.

18 On the whole, however, I believe that the type of  
19 offense is a serious offense, and the defendant has been found  
20 guilty of this offense, and there is not clear and convincing  
21 evidence that he is not likely to flee. And so for that  
22 reason, bond is revoked and the defendant will be remanded to  
23 the custody of the U.S. Marshal pending the sentencing. That  
24 is my decision.

25 MS. SMITH: Thank you, Your Honor.

1 THE COURT: We need to set a date for the sentencing  
2 in this matter, so I want to ask Ms. Chubb to set the date for  
3 sentencing.

4 THE CLERK: Sentencing will be held on December 12th,  
5 2018 at 2:00 o'clock p.m.

6 MR. AMBERG: I'm sorry, what time was that at?

7 MS. SMITH: 2:00 p.m.

8 THE CLERK: 2:00 o'clock p.m.

9 THE COURT: Let me just say a couple of things here.  
10 First of all, I want to indicate that I believe that the  
11 attorneys in this case on both sides have done a very good job  
12 in representing their respective clients. I think that the  
13 government did a good job putting the evidence together, and I  
14 think that Mr. Amberg did a very good job defending Mr.  
15 Ramamoorthy during this trial, and I want to thank the counsel  
16 for the work that they did in preparing the case and presenting  
17 their respective sides of the case.

18 Sometimes counsel believes that they can learn from  
19 talking to members of the jury who have sat through the case  
20 and have watched the presentation of the evidence. I'm going  
21 to confer with the jury now. I will ask them whether they wish  
22 to speak with counsel about the case. If they do wish to speak  
23 with counsel, I will let you know that. And if you wish to  
24 speak with them, let Mr. Darling or Ms. Chubb know that and I  
25 will convey that to them.

1 And so we can be adjourned then in this matter?

2 MS. SMITH: Nothing further from the United States.

3 MR. AMBERG: If I could have one second.

4 (Brief pause)

5 Nothing further, Your Honor.

6 THE COURT: All right. Thank you very much.

7 THE CLERK: Please rise. Court is in recess.

8 (Court in recess at 4:19 p.m.)

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C E R T I F I C A T I O N

I, Linda M. Cavanagh, Official Court Reporter of the United States District Court, Eastern District of Michigan, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing pages 1 through 136 comprise a full, true and correct transcript of the proceedings held in the matter of United States of America vs. Prabhu Ramamoorthy, Case No. 18-20027, on Wednesday, August 15, 2018.

s/Linda M. Cavanagh  
Linda M. Cavanagh, RDR, RMR, CRR, CRC  
Federal Official Court Reporter  
United States District Court  
Eastern District of Michigan

Date: March 4, 2019  
Detroit, Michigan